

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
 GENERAL PERMIT FOR STORMWATER DISCHARGES
 ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE
 ACTIVITIES

DRAFT ORDER 20XX-XXXX-DWQ

NPDES NO. **CAS000002**

This Order was adopted by the State Water Resources Control Board on:	XXXX XX, 20XX
This Order shall become effective on:	XXXX XX, 20XX
This Order shall expire on:	XXXX XX, 20XX

IT IS HEREBY ORDERED, that this Order supersedes Order 2009-0009-DWQ as amended by Order 2010-0014-DWQ and 2012-0006-DWQ except for: (1) the requirement to submit annual reports by September 1, 20XX, and (2) enforcement purposes. The Discharger shall comply with the requirements in this Order to meet the provisions contained in Division 7 of the California Water Code (commencing with Section 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act and regulations and guidelines adopted thereunder.

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the State Water Resources Control Board, on XXXX XX, XXXX.

AYE:

NAY:

ABSENT: None

ABSTAIN: None

Clerk to the Board

Table of Contents

DRAFT ORDER 20XX-XXXX-DWQ I

I. CONDITIONS FOR GENERAL PERMIT COVERAGE 9

II. DISCHARGE PROHIBITIONS 28

III. SPECIAL PROVISIONS 29

IV. EFFLUENT LIMITATIONS AND ACTION LEVELS 39

V. RECEIVING WATER LIMITATIONS 41

VI. DISCHARGES SUBJECT TO THE CALIFORNIA OCEAN PLAN..... 41

VII. DISCHARGER ROLES AND SITE PERSONNEL 42

VIII. RISK DETERMINATION 50

IX. RISK LEVEL 1 REQUIREMENTS..... 51

X. RISK LEVEL 2 REQUIREMENTS..... 51

XI. RISK LEVEL 3 REQUIREMENTS..... 51

XII. ACTIVE TREATMENT SYSTEM REQUIREMENTS 51

XIII. PASSIVE TREATMENT REQUIREMENTS 51

XIV. POST-CONSTRUCTION REQUIREMENTS 51

**XV. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)
REQUIREMENTS..... 52**

XVI. ANNUAL REPORTING REQUIREMENTS..... 57

XVII. REGIONAL WATER BOARD AUTHORITIES 58

LIST OF ATTACHMENTS

Attachment A – Linear Underground and Overhead Project Requirements

Attachment A.1 – Linear Underground and Overhead Project Type Determination

Attachment A.2 – Linear Underground and Overhead Project Permit Registration Documents

Attachment B – Permit Registration Documents

Attachment C – Risk Level 1 Requirements

Attachment D – Risk Level 2 Requirements

Attachment E – Risk Level 3 Requirements

Attachment F – Active Treatment System (ATS) Requirements

Attachment G – Passive Treatment System Requirements

Attachment H – TMDL Implementation Requirements

Attachment I – Ocean Plan

LIST OF APPENDICES

Appendix 1 – Risk Determination Worksheet

Appendix 2 – Glossary

Appendix 3 – Acronyms and Terms

Appendix 4 – State and Regional Water Resources Control Board Contacts

STATE WATER RESOURCES CONTROL BOARD**DRAFT ORDER 20XX-XXXX-DWQ****NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM****GENERAL PERMIT NO. CAS000002****WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF
STORMWATER RUNOFF ASSOCIATED WITH CONSTRUCTION
AND LAND DISTURBANCE ACTIVITIES****The State Water Resources Control Board (State Water Board) finds that:**

1. The Federal Water Pollution Control Act, also referred to as the Clean Water Act, prohibits certain discharges of stormwater containing pollutants to waters of the United States except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit (Title 33 United States Code (U.S.C.) section 1311 and 1342(p); also referred to as Clean Water Act section 301 and 402(p)). The United States Environmental Protection Agency (U.S. EPA) promulgates federal regulations to implement the Clean Water Act's mandate to control pollutants in stormwater runoff discharges. (Title 40 Code of Federal Regulations (CFR) Parts 122, 123, and 124). The federal statutes and regulations require discharges to waters of the United States comprised of stormwater associated with construction activity to obtain NPDES permit coverage (except operations that result in disturbance of less than one acre of total land area and that are not part of a larger common plan of development or sale). Construction activity includes, but is not limited to, clearing, demolition, dewatering, grading, excavation, and other land disturbance activities. The NPDES permit shall require implementation of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate pollutants in stormwater runoff. NPDES permit coverage shall also include any additional requirements necessary to implement applicable water quality standards.
2. This NPDES permit also serves as waste discharge requirements for discharges of pollutants in stormwater runoff (stormwater discharges) associated with construction and land disturbance activities and is hereinafter referred to as General Permit.
3. The Legally Responsible Person(s) and the Duly Authorized Representative(s) of a site (as defined in Appendix 2 of this

General Permit) discharging stormwater associated with construction activity and requiring General Permit coverage are hereinafter also referred to as discharger(s).

4. This General Permit regulates discharges to waters of the United States from stormwater, dewatering, and authorized non-stormwater associated with construction activity from sites that disturb one or more acres of land surface, or that are part of a common plan of development or sale that disturbs more than one acre of land surface.
5. This General Permit regulates discharges to waters of the United States from stormwater, dewatering and authorized non-stormwater associated with construction activities from all linear underground and overhead projects resulting in the disturbance of greater than or equal to one acre (Attachment A).
6. This General Permit does not preempt or supersede the authority of local stormwater management agencies to prohibit, restrict, or control stormwater discharges to municipal separate storm sewer systems or other watercourses within their jurisdictions.
7. This action to adopt a general NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (Public Resources Code Section 21100, et seq.), pursuant to Section 13389 of the California Water Code.
8. Regional Water Boards establish water quality standards in water quality control plans (Basin Plans). The State Water Board establishes water quality standards in various statewide plans, including the California Ocean Plan and the forthcoming Inland Surface Waters, Enclosed Bays, and Estuaries of California Plan. U.S. EPA establishes water quality standards in the National Toxic Rule and the California Toxic Rule.
9. Pursuant to 40 Code of Federal Regulations section 131.12 and State Water Board Resolution No. 68-16 (anti-degradation policy), which incorporates applicable requirements of section 131.12, in high quality waters, discharges may not unreasonably affect beneficial uses, result in water quality less than the quality specified by water quality objectives, or cause a pollution or nuisance, except as allowed under the anti-degradation policy. Because coverage under this General Permit is available statewide, this General Permit may authorize discharges to at least some surface waters that are high quality. This General Permit requires the implementation of BCT and BPT controls where discharges may cause degradation. This General Permit is

consistent with the maximum benefit to the people of the state. The State Water Board finds that discharges in compliance with this General Permit will not result in degradation of high-quality waters consistent with the anti-degradation policy.

10. This General Permit serves as an NPDES permit in compliance with Clean Water Act section 402 and will be effective on XXXX XX, 20XX provided the Regional Administrator of the U.S. EPA has no objection. If the U.S. EPA Regional Administrator objects to its issuance, this General Permit will not become effective until such objection is withdrawn.
11. The Regional Water Quality Control Boards (Regional Water Boards) and State Water Board, collectively referred to as the Water Boards, shall enforce the provisions herein following adoption and upon the effective date of this General Permit.
12. Stormwater discharges from dredge spoil placement that occur outside of waters of the state (upland sites) and that disturb one or more acres of land surface from construction activity are covered by this General Permit. This General Permit does not cover the discharge of dredged or fill material to waters of the state. Construction projects that include the discharge of dredged or fill material to waters of the state should contact the applicable Regional Board to obtain authorization for the discharge of dredged or fill material to waters of the state.
13. Compliance with requirements contained in this General Permit does not supersede or constitute compliance with other regulatory requirements also applicable to discharges regulated by this General Permit, including waste discharge prohibitions in regional and statewide water quality control plans.
14. The State Water Board heard and considered all comments and testimony in a public hearing on XXXX XX, 20XX as publicly notice in accordance with state and federal laws and regulations. The State Water Board has prepared written responses to all significant comments.
15. Construction activity that results in a discharge of dredged or fill material to a water of the United States is regulated by the United States Army Corps of Engineers under Clean Water Act section 404, and by the Water Boards under Clean Water Act section 401. Construction activity that results in a discharge of dredged or fill material to a water outside of federal jurisdiction may be regulated by the Water Boards under the Porter-Cologne Water Quality Control Act.

16. Pursuant to 40 Code of Federal Regulations Part 3 (Cross-Media Electronic Reporting Regulation), Section 122.44¹, and 40 Code of Federal Regulations Part 127 (NPDES Electronic Reporting)², all NPDES dischargers to electronically certify and submit all permit registration documents, notices of non-applicability, notices of coverage termination, changes of information, annual reports, and other required documents.
17. The 2002 Homeland Security Act³ (U.S. 116 STAT. 2135 and Title 6 U.S. Code Chapter 1 Section 101) requires any information provided to the Water Boards per a regulatory action taken by the Water Boards shall comply with the Homeland Security Act and other federal law that address security in the United States; the discharger should not submit any information that does not comply.
18. The discharger is required to comply with this General Permit's conditions for all discharges associated with stormwater from construction activity, dewatering, and authorized non-stormwater discharges by this General Permit or another NPDES permit issued by the State Water Board or a Regional Water Board (40 Code of Federal Regulations Part 122 Section 41). All other discharges are prohibited by this General Permit.
19. Unauthorized non-stormwater discharges are prohibited, including improper dumping, spills, or leakage from storage tanks or transfer areas. Non-stormwater discharges may contribute significant pollutant loads to receiving waters.
20. All discharges which contain a hazardous substance in excess of reportable quantities established in 40 Code of Federal Regulations Section 117.3 and 302.4, are prohibited unless a

¹ [U.S. EPA, Cross-media Electronic Reporting](https://www.govinfo.gov/content/pkg/CFR-2011-title40-vol22/pdf/CFR-2011-title40-vol22-sec122-44.pdf), October 13, 2005 <<https://www.govinfo.gov/content/pkg/CFR-2011-title40-vol22/pdf/CFR-2011-title40-vol22-sec122-44.pdf>> [as of October 19, 2020]

² [U.S. EPA, NPDES Electronic Reporting](https://ecfr.io/Title-40/cfr127_main), October 22, 2015 <https://ecfr.io/Title-40/cfr127_main>, [as of October 19, 2020]

³ [Department of Homeland Security, Homeland Security Act 107th Congress](https://www.dhs.gov/homeland-security-act-2002), November 25, 2002 <<https://www.dhs.gov/homeland-security-act-2002>>, [as of October 19, 2020]

separate NPDES permit has been issued to regulate those discharges.

21. Stormwater that is exposed to by-products and waste products resulting from demolition activities may transport and discharge pollutants off-site and into receiving waters.
22. In accordance with State Water Board Resolution 2015-0019, Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California, the discharge of any debris⁴ and/or trash from construction sites is prohibited.
23. The State Water Board, in collaboration with the California Stormwater Quality Association and the California State University, Sacramento, Office of Water Programs, established a Construction General Permit Training Team to develop a corresponding General Permit training program and certification process for Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer (QSD) and the Qualified SWPPP Practitioner (QSP) conducting work required by this General Permit.
24. All California professional engineering, land surveying, and geology work is licensed by the Board for Professional Engineers, Land Surveyors, and Geologists.⁵ Pursuant to the Professional Engineers Act (Bus. and Prof. Code Section 6700, et seq.), all engineering work is required to be performed by a California licensed professional engineer, land surveyor and/or geologist.
25. Precipitation events can occur at any time of the year in California. On-site stormwater management is necessary throughout the entire year to ensure sites implement adequate erosion and sediment controls prior to the onset of a precipitation event, even if construction is planned only during the typically dry season.
26. Soil particles smaller than 0.02 millimeters (mm) (i.e., finer than medium silt) do not settle easily using conventional measures for sediment control (i.e., sediment basins). Fine particles discharged

⁴ Debris may include, but is not limited to, litter, rubble, discarded refuse, and remains of destroyed inorganic anthropogenic waste.

⁵ [Department of Consumer Affairs, California Board for Professional Engineers, Land Surveyors, and Geologists website](https://www.bpelsg.ca.gov/) <https://www.bpelsg.ca.gov/> [as of October 19, 2020]

into surface waters cause downstream impacts to beneficial uses in the receiving water. Actively treating construction stormwater discharges with properly operated and maintained active treatment systems can reduce the turbidity level and sediment concentration in the discharge within receiving water limitations.

27. The State Water Board convened a Blue Ribbon Panel (Panel) of stormwater experts that submitted a report entitled “The Feasibility of Numeric Effluent Limits Applicable to Discharges of Stormwater Associated with Municipal, Industrial and Construction Activities,” dated June 19, 2006. The Panel concluded that numeric effluent limitations or numeric action levels are technically feasible to regulate construction stormwater discharges. The Panel concluded that numeric effluent limitations are feasible for discharges from sites that utilize an active treatment system. The Previous Permit (Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ) includes numeric action levels (NALs) for pH and turbidity, and specific numeric effluent limitations for active treatment system discharges. The Panel did not provide suggested conclusions for the legal implementation of total maximum daily loads (TMDLs) with construction stormwater sources and appropriate limitations.
28. The purpose of numeric action levels and associated monitoring requirements is to provide operational information regarding the performance of the site control measures used to minimize the discharge of pollutants and to protect receiving water beneficial uses from the adverse effects of construction-related stormwater, dewatering, and authorized non-stormwater discharges.
29. Receiving water limitations are based on established water quality standards in Regional Water Board Basin Plans or statewide water quality control plans. Receiving water limitations are applicable to the named receiving water body(ies), and unnamed tributaries to that water body(ies).
30. TMDLs refer to the maximum amount of a pollutant that a water body can receive and still attain water quality standards. A TMDL is defined as the sum of the allowable loads of a single pollutant from all contributing point sources (the waste load allocations) and non-point sources (load allocations), plus the contribution from background sources (40 Code of Federal Regulations section 130.2(i)). Discharges of stormwater from construction activities are considered point source discharges, and therefore must comply with NPDES permit requirements translated to be “consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the state and approved by

U.S. EPA pursuant to 40 Code of Federal Regulations section 130.7”(40 Code of Federal Regulations section 122.44 (d)(1)(vii).) In addition, Water Code section 13263, subdivision (a), requires that waste discharge requirements implement any relevant water quality control plans. Many TMDLs in water quality control plans include implementation requirements in addition to waste load allocations.

31. Areas of Special Biological Significance are defined in the California Ocean Plan as “those areas designated by the State Water Board as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable.” The California Ocean Plan prohibits the discharge of waste to Areas of Special Biological Significance.
32. Pursuant to the California Ocean Plan, discharges to Areas of Special Biological Significance are prohibited unless identified in a State Water Board-approved exception.
33. The California Ocean Plan authorizes the State Water Board to grant an exception to Ocean Plan provisions where the State Water Board determines that the exception will not compromise protection of ocean waters for beneficial uses and the public interest will be served.
34. On March 20, 2012, the State Water Board adopted Resolution 2012-0012 which contains exceptions to the California Ocean Plan for specific discharges of stormwater and non-point sources. This resolution also contains the special protections that are to be implemented for those discharges to Areas of Special Biological Significance.
35. Dischargers are only allowed to discharge to an Area of Special Biological Significance when in compliance with Areas of Special Biological Significance-specific requirements in a State Water Board-provided exception to the Ocean Plan granted to the specific discharger.
36. On August 19, 2014 the U.S. EPA amended the Clean Water Act to require all NPDES permits to include requirements to implement sufficiently sensitive test methods. This General Permit requires all laboratory analyses to be sufficiently sensitive and conducted according to test procedures under 40 Code of Federal Regulations Part 136. All analytical results less than the minimum level (reporting limit), as reported by the laboratory, will be assigned a value of zero (0) for any calculations required by this permit (e.g., numeric action level and numeric effluent limitation

exceedance determinations), so long as a sufficiently sensitive test method was used as evidenced by the reported method detection limit and minimum level.

37. Specific types of passive treatment used in combination with other best management practices (BMPs) can prevent or reduce the discharge of fine particles from certain construction activities when implemented correctly.
38. Passive treatment systems (e.g., floc logs, spray tackifiers, etc.) add chemicals to facilitate flocculation, coagulation, and filtration of suspended sediment particles to reduce turbidity. Passive treatment systems are used as site-specific BMPs to control erosion and sediment transport. The discharge of chemicals used in passive treatment can potentially cause or contribute to acute and chronic toxicity to aquatic life in receiving waters, in exceedance of narrative or numeric water quality objectives in Regional Water Board Basin Plans or statewide water quality control plans.
39. State Water Board Resolution 2005-0006, "Resolution Adopting the Concept of Sustainability as a Core Value for State Water Board Programs and Directing its Incorporation," and Resolution No. 2008-0030, "Requiring Sustainable Water Resources Management," include performance standards for post-construction BMPs. The standards include the use of permanent post-construction BMPs that manage stormwater runoff rates to match pre-construction project site hydrology, and to sustain and ensure the physical structure and biological integrity of aquatic ecosystems in the receiving waters. This "runoff reduction" approach is analogous in principle to low impact development (LID) and is proven to protect watersheds and waterbodies from hydrologic-based adverse changes and pollution impacts associated with the post-construction landscape.
40. Code of Federal Regulations section 122.26(a)(9)(i)(D) authorizes Regional Water Boards or their delegate(s) to require any unregulated stormwater discharge associated with construction activity to waters of the United States to obtain NPDES permit coverage as appropriate. Regional Water Boards also have the authority to adopt more stringent requirements on stormwater dischargers in their region, above and beyond a State Water Board statewide NPDES permit for stormwater discharges associated with construction activities, as necessary to protect beneficial uses in receiving waters within their region.

IT IS HEREBY ORDERED that all dischargers subject to this General Permit shall comply with the following conditions and requirements (including all conditions and requirements as set forth in Attachments: A, A.1, A.2, B, C, D, E, F, G, H, and I and Appendices 1, 2, 3, and 4)⁶: State Water Board Order No. 2009-009-DWQ as amended by Orders No. 2010-0014-DWQ & 2012-0006-DWQ (previous permit) is rescinded as of the effective date of this General Permit except for enforcement purposes and the Annual Report required to be submitted by September 1, 20XX.

I. CONDITIONS FOR GENERAL PERMIT COVERAGE

A. Construction Activity Subject to this General Permit

Construction activities that are covered under this General Permit include the following:

1. Construction activity resulting in a land disturbance of one acre or more, or less than one acre but is part of a larger common plan of development or sale. Construction activity includes, but is not limited to, clearing, demolition, grading, excavation, stockpiling, and reconstruction of existing facilities involving removal and replacement;
2. Construction activity related to residential, commercial, or industrial development on lands currently used for agriculture including, but not limited to, the construction of buildings related to agriculture that are considered industrial pursuant to U.S. EPA regulations, such as dairy barns or food processing facilities;
3. Construction activity associated with linear underground and overhead projects. A list of construction activity associated with linear underground and overhead projects can be found in Section I.J.2 of the fact sheet;
4. Discharges from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities pursuant to 40 Code of Federal Regulations section 122.26(c)(1)(iii), which;

⁶ These attachments are part of this General Permit itself and are not separate documents that are capable of being updated independently by the State Water Board.

- a. Had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 Code of Federal Regulations sections 117.21 or 302.6 at any time since November 16, 1987;
- b. Had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is or was required pursuant to Code of Federal Regulations section 110.6 at any time since November 16, 1987; or,
- c. Contributes to a violation of a water quality standard.

B. Traditional Construction Projects Not Covered

This General Permit does not apply to the following construction activity:

1. Routine maintenance. Routine maintenance is defined as activities intended to maintain the original grade, hydraulic capacity and/or purpose of the facility. This General Permit further defines routine maintenance for road and highway projects as the replacement of the structural section, but not when the activity exposes the underlying soil or pervious subgrade. The road surface and base are not part of the subgrade. As such, those portions of a project that remove the road surface and base down to the pervious subgrade and/or underlying soil would not be considered routine maintenance.
2. Disturbances to land surfaces solely related to growing crops or agricultural operations such as disking, harrowing, terracing and leveling, and soil preparation.
3. Discharges of stormwater from areas on tribal lands; construction on tribal lands is regulated by a federal permit.
4. Discharges of stormwater within the Lake Tahoe Hydrologic Unit. The Lahontan Regional Water Board has adopted its own permit to regulate stormwater discharges from construction activity in the Lake Tahoe Hydrologic Unit (Regional Water Board 6SLT). Owners of construction projects in this watershed must apply for the Lahontan Regional Water Board permit rather than the statewide Construction General Permit. Construction projects

within the Lahontan region must also comply with the Lahontan Region Project Guideline for Erosion Control (R6T-2016-0010).⁷

5. Construction activity that disturbs less than one acre of land surface, unless part of a larger common plan of development or the sale of one or more acres of disturbed land surface.
6. Construction activity covered by an individual NPDES Permit for stormwater discharges.
7. Construction activity that is subject to the Industrial General Permit: Concrete manufacturer of prefabricated products, ready-mix concrete, or slurries that are delivered to construction sites require enrollment in the Industrial General Permit (Order 2014-0057-DWQ). Examples of this industrial activity are those facilities primarily engaged in manufacturing concrete building blocks and bricks, other concrete products not building blocks and bricks, or ready-mix concrete as categorized by Standard Industrial Classification (SIC) codes 3531, 3271, 3272, or 3273. Concrete manufacturing of prefabricated products, ready-mixed concrete, or slurries that are transported from construction sites where mixing occurs and delivered to a separate site require enrollment in the Industrial General Permit.
8. Construction activity that discharges to Combined Sewer Systems.
9. Conveyances that discharge stormwater runoff combined with municipal sewage.
10. Discharges of stormwater identified in Clean Water Act section 402(l)(2), 33 USC section 1342(l)(2) (stormwater runoff from oil, gas, and mining operations) unless the discharge meets the conditions of 40 Code of Federal Regulations section 122.26(c)(1)(iii) as described in this General Permit.

⁷ Lahontan Regional Water Quality Control Board, [Order NO. R6T-2016-0010](https://www.waterboards.ca.gov/lahontan/water_issues/programs/storm_water/docs/r6t_2016_0010_cgp_combined.pdf) (March 10, 2016), <https://www.waterboards.ca.gov/lahontan/water_issues/programs/storm_water/docs/r6t_2016_0010_cgp_combined.pdf> [as of October 19, 2020]

D. Linear Underground and Overhead Projects

Dischargers with linear underground and overhead projects shall comply with the conditions and requirements in Attachment A, A.1, and A.2 of this General Permit; Requirements of this General Permit outside of Attachment A, A.1, and A.2 are not applicable to linear underground and overhead projects construction, except as indicated in Attachment A.

1. Linear underground and overhead projects include, but are not limited to conveyance facilities, culverts pipelines, or other linear corridors for:
 - a. The transportation of any gaseous, liquid, liquescent, and slurry material;
 - b. Cable line or wire for the transmission of:
 - i. Electrical energy;
 - ii. Communications, including internet, telephone, telegraph, radio, or television messages;
 - c. Affiliated facilities and substructures such as substations, towers, poles and ancillary facilities.
2. Construction support activities (as defined in Appendix 2 of this General Permit) associated with linear underground and overhead projects include, but are not limited to:
 - a. Activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment, vegetative management, and associated ancillary facilities); and;
 - b. Activities including underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavating, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation construction that will disturb less than one acre, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and pavement repair or replacement, and stockpile/borrow locations.
3. Dischargers with multiple linear underground and overhead projects may submit one Notice of Intent for General Permit coverage, per set of projects that are entirely within one Regional Water Board region, if its linear underground and overhead projects have the same following project components:

- a. the same Legally Responsible Person,
 - b. the same linear underground or overhead project type (e.g. Type 1, 2, or 3), and
 - c. Are contiguous to other linear underground and overhead projects.
4. A discharger for a linear underground and overhead project is required to obtain General Permit coverage under one or more applications through SMARTS. Attachment A.1 contains a guidance flow chart to determine a linear underground and overhead project type and requirements for General Permit coverage.

E. Linear Underground and Overhead Projects Not Covered

1. Linear underground and overhead project construction activity does not include linear routine maintenance projects. Routine maintenance projects are projects associated with operations and maintenance activities that are conducted on existing lines and facilities and within existing right-of-way, easements, franchise agreements, or other legally binding agreements of the discharger. Routine maintenance projects include, but are not limited to projects that are conducted to:
 - a. Maintain the original purpose of the facility or hydraulic capacity.
 - b. Update existing lines⁸ and facilities to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity.
 - c. Repair leaks.
2. Routine maintenance does not include construction of new lines or facilities resulting from compliance with applicable codes, standards, and regulations.
3. Routine maintenance projects do not include those areas of maintenance projects that are outside of an existing right-of-way, franchise, easements, or agreements. When a project must secure new areas, those areas may be subject to this General Permit

⁸ Update existing lines includes replacing existing lines with new materials or pipes.

based on the area of disturbed land outside the original right-of-way, easement, or agreement.

4. Linear underground and overhead project construction activity does not include field activities associated with the planning and design of a project (e.g., activities associated with route selection).
5. Tie-ins conducted immediately adjacent to “energized” or “pressurized” facilities by the discharger are not considered construction activities where all other linear underground and overhead project construction activities associated with the tie-in are covered by a Notice of Intent and SWPPP of a third party or municipal agency.

F. Legally Responsible Person and Permit Registration Documents

The discharger shall designate a Legally Responsible Person for each of its waste discharge identification numbers (WDIDs). The Legally Responsible Person is responsible for enrollment under and compliance with this General Permit. The Legally Responsible Person, as defined in Appendix 2 of this General Permit, shall fulfill the electronic signature and certification requirements to obtain General Permit coverage. (See Section III.I, Electronic Signature and Certification Requirements.)

1. The Legally Responsible Person shall electronically certify and submit the following applicable Permit Registration Documents through SMARTS⁹ and obtain a WDID prior to the commencement of construction activity. Failure to obtain General Permit coverage for stormwater and non-stormwater discharges to waters of the United States is a violation of the Clean Water Act and the California Water Code.
 - a. Notice of Intent, including Risk Level calculation;
 - b. Site Drawings and Maps;
 - c. Stormwater Pollution Prevention Plan (SWPPP) (see Section XV, below);
 - d. Applicable post-construction calculations and supporting documentation (e.g., specifications for a basin) or documentation proposing compliance with an existing

⁹ Dischargers are required to have a signed original Electronic Authorization Form on file with the State Water Board for each organization in SMARTS.

permitted Phase I or Phase II MS4 post-construction requirements; and,

- e. Annual fee per the current 23 California Code of Regulations Chapter 9 fee schedule for NPDES stormwater permits.
 - f. All applicable additional Permit Registration Document information as required in Attachment B of this General Permit.
2. An applicant is considered to have General Permit regulatory coverage and can commence construction activity upon receipt of a Waste Discharge Identification (WDID) Number generated by SMARTS. Dischargers shall post their site-specific WDID number in a site location that is visible to the public.
 3. In the case of a public emergency that requires immediate construction activities involving one acre or more of land disturbance, a discharger shall submit to the applicable Regional Water Board a brief description of the emergency construction activity within five calendar days of the onset of site construction. The discharger shall then submit the required Permit Registration Documents through SMARTS within 30 calendar days of commencing site activity.

G. Regulatory Coverage under the Previous Permit

1. Existing dischargers subject to State Water Board Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ, (previous permit) will continue coverage under the previous permit until XXXX XX, XXXX. After XXXX XX, XXXX, all existing NOIs subject to the previous permit will be terminated.
2. Dischargers with previous permit coverage shall re-certify for coverage under this General Permit through SMARTS by the effective date. Dischargers with the previous permit's Small Construction Rainfall Erosivity Waiver may continue to operate under a project's active Waiver until it expires. Waivers granted under the previous permit cannot be modified or extended.
3. Dischargers that submit a Notice of Termination for previous permit termination prior to the effective date of this General Permit and receive Notice of Termination approval from the Regional Water Board are not subject to this General Permit (unless the discharger subsequently submits new Permit Registration Documents).

H. Small Construction Rainfall Erosivity Waiver

1. Dischargers are eligible for the Small Construction Rainfall Erosivity Waiver (Waiver) if:
 - a. The site is between one and five acres; and
 - b. The construction activity will take place during a period when the calculated rainfall erosivity factor is less than five.
2. Dischargers are not eligible for the Waiver if the stormwater runoff from the site directly discharges to, or through a municipal separate storm sewer system (MS4) into, a high-risk watershed. A high-risk watershed is a watershed with Clean Water Act section 303(d) impaired waterbody(ies) listed for sediment or a water body with cold, spawn, and migratory beneficial uses.
3. Dischargers with small sites that are part of a larger common plan of development do not qualify for a Waiver unless the entire project qualifies for a Waiver.
4. The Legally Responsible Person shall submit a Notice of Intent application and corresponding site information through SMARTS, and the appropriate fee to the State Water Board to request a Waiver. If approved, the Legal Responsible Person will be electronically provided with the Waiver with a unique SMARTS-generated Waiver Identification Number. The Waiver is effective on the date the Waiver Identification Number is issued.
5. A discharger qualifying for a Waiver shall obtain a Waiver Identification Number prior to starting any land disturbances, construction, or demolition activities.
6. A Waiver is valid only if the correct start and end dates of construction activities are entered (and updated if necessary) through the Change of Information process in SMARTS.
7. The discharger may revise an original construction start date through the Change of Information process in SMARTS and shall provide documentation demonstrating the project had not started on the date originally submitted through SMARTS.
8. The discharger shall update the project end date through the Change of Information process in SMARTS prior to expiration of the Waiver if the project completion date is anticipated to extend past the Waiver expiration date. If the updated project end date results in a rainfall erosivity factor of five or greater, the discharger shall obtain coverage under this General Permit. If the discharger

fails to update the project end date prior to expiration of waiver, they shall immediately obtain coverage under this General Permit.

9. The discharger and the applicable Regional Water Board will be notified when a Waiver expires through an email from SMARTS.
10. The discharger shall post the unique Waiver Identification Number in a site location that is visible to the public.
11. A Waiver does not provide General Permit coverage. Dischargers with a Waiver are not required to comply with post-construction, sampling, monitoring, or other SWPPP requirements in this General Permit.
12. A Regional Water Board may rescind a Waiver if the Regional Water Board determines the discharge of stormwater runoff causes or contributes to an exceedance of a water quality standard, or violates a prohibition in an applicable regional or statewide water quality control plan. The Regional Water Board Executive Officer or their delegate may require the discharger to obtain regulatory coverage under this General Permit or an NPDES permit issued by the Regional Water Board.

I. Authorized Non-Stormwater Discharges

1. Non-stormwater discharges from the following de-chlorinated potable and non-potable water sources are authorized if they comply with the requirements in Section I.H.2 of this General Permit:
 - a. Fire-fighting activity;
 - b. Fire hydrant system flushing;
 - c. Irrigation of vegetative erosion control measures;
 - d. De-chlorinated potable water, including uncontaminated water line flushing;
 - e. Hydrostatic pipe flushing and testing water;
 - f. Air conditioning or compressor condensate;
 - g. Groundwater or spring water;
 - h. Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated ground water;

- i. Water to control dust; and/or,
 - j. Construction dewatering water discharged in accordance with Section K below.
2. The above non-stormwater discharges are authorized under the following conditions:
 - a. The discharge is not routed through site areas with exposed soil, except for water used for dust control or to vegetation irrigation to stabilize areas;
 - b. The discharge does not cause or contribute to an exceedance of water quality standards in the receiving water;
 - c. The discharge complies with other applicable requirements of this General Permit including applicable action levels, effluent limitations, and monitoring and reporting requirements;
 - d. The discharge is not prohibited by an applicable Regional Water Board Basin Plan or statewide water quality control plan;
 - e. The discharge is in accordance with other applicable State and Regional Water Board Orders; and
 - f. The discharge does not contain toxic constituents in toxic amounts and does not cause toxicity in the receiving water body.
3. The discharger shall notify the Regional Water Board of existing or anticipated non-stormwater discharges not authorized by this General Permit, to determine if regulatory coverage is necessary through a separate NPDES permit.

J. Demolition

1. Dischargers with construction activities including demolition of any structure¹⁰ built or renovated between January 1, 1950 and

¹⁰ "Structure," in this instance, must have been constructed with floor space (such as a building).

January 1, 1980 with at least 10,000 square feet of floor space shall:

2. Implement controls¹¹ to minimize the exposure of PCB-containing building materials to precipitation and stormwater, including but not limited to, paint, caulk, and pre-1980 fluorescent lighting fixtures by:
 - a. separating work areas from non-work areas,
 - b. selecting appropriate personal protective equipment and tools,
 - c. constructing containment areas preventing all dust or debris generated by the work from leaving the protected area, and
 - d. using tools that minimize dust and heat (less than 212°F). and,
 - e. Dispose of all materials in compliance with applicable state, federal, and local laws.

K. Authorized Construction Dewatering Discharges

1. Dewatering discharges authorized by this General Permit include mechanical pumping or syphoning of non-potable water from sources including, but not limited to: excavations, trenches, foundations, vaults, groundwater removal specifically related to the construction activities, and/or water collected in surface impoundments (e.g., ponds, puddles, low points on the active site, or other similar accumulation points).
2. Dewatering discharges shall comply with the following requirements:
 - a. The discharge shall not cause or contribute to an exceedance of any water quality standards in the receiving water;
 - b. The discharge shall be analyzed within the first hour of discharge for turbidity and instantaneously comply with the

¹¹ Refer to this General Permit's Fact Sheet for additional information regarding examples of controls to minimize exposure of PCBs to precipitation and stormwater.

numerical action level of 250 Nephelometric Turbidity Units (NTU) for each sample and continuous discharges shall be analyzed weekly;

- c. The Qualified SWPPP Practitioner (QSP) shall upload all numeric action level exceedances through SMARTS within 10 days of receiving analytical results from a laboratory or within 10 days of field measurements (e.g., turbidity and pH);
- d. The Qualified SWPPP Developer (QSD) shall revise the SWPPP to incorporate immediate corrective actions to prevent further exceedances. The revised SWPPP shall be uploaded as part of a Change of Information through SMARTS;
- e. The discharger shall certify and submit the uploaded numeric action level exceedances through SMARTS;
- f. Dewatering operations with discharge(s) exceeding the above requirements shall immediately cease until the discharge complies with all applicable requirements in this General Permit;
- g. The discharge is absent of pollutants in quantities that threaten to cause pollution or a nuisance¹²;
- h. The dewatering activity takes place in an area without known (including, but not limited to information from: Geotracker, local permitting authorities, Water Boards, etc.) soil and/or groundwater contamination where that contamination could adversely affect the discharge and/or the receiving water;
- i. The dewatering activity does not use a groundwater extraction well; and,
- j. The discharger shall utilize outlet structures that withdraw water from the surface when conducting dewatering activity from sediment basins or similar impoundments, unless infeasible.

¹² 40 Code of Federal Regulations section 131.12, and State Water Board Resolution No. 68 16.

3. The discharger shall describe how the following requirements are addressed in the site-specific SWPPP developed by a QSD:
 - a. The discharger shall select and implement site-specific BMPs to prevent the non-stormwater discharge from contacting construction materials or equipment.
 - b. The discharger shall select and implement BMPs that do not use waters of the U.S. as part of the treatment area, at all areas or points where dewatering water is discharged;
 - c. The discharger shall select and implement on-site BMPs to decelerate the velocity of the dewatering discharge (e.g., check dams, sediment traps, riprap, and grouted riprap at outlets);
 - d. The discharger shall remove, dispose of, or recirculate (to the beginning of the treatment process) all backwash water;
 - e. The discharger shall clean and maintain all dewatering devices and filter media when the pressure differential equals or exceeds the manufacturer's specifications (if applicable).
 - f. The discharger shall follow site-specific dewatering sampling protocols used to comply with requirements in Section K.4 below; and,
 - g. The discharger shall depict the discharge area or point location in the site maps.
4. Prior to the beginning of a dewatering discharge, the discharger shall:
 - a. Update its SWPPP in SMARTS with current information required in Section K.3 above; and
 - b. Notify the applicable Regional Water Boards of the anticipated dewatering discharge.
 - c. The discharger shall cease discharge if necessary, as follows:
 - d. Through an hourly automated sampling device capable of ceasing the discharge if a single sample concentration/level exceeds the numeric action level; or,

- e. By a QSP or delegate who is present during the operation of the mechanical pumping and/or syphoning of the dewatering activity and has the authority to halt the activity if a numeric action level is exceeded for a single sample.
5. For turbidity in Nephelometric Turbidity Units (NTU). If the turbidity level in a single sample exceeds the numeric action level of 250 NTU, the discharger shall cease discharge until the discharge turbidity level is below 250 NTU.
 6. The discharger shall notify the corresponding Regional Water Board within 24 hours of a discharge occurring if an exception to the requirement to cease discharge is necessary to protect human life and health or prevent severe property damage.
 7. This General Permit does not limit the State or Regional Water Boards' authority to modify dewatering discharge requirements upon providing written notice to the discharger, including but not limited to the following:
 - a. Adding constituents to be monitored;
 - b. Adding or modifying frequency of monitoring;
 - c. Limiting the maximum discharge volume per day;
 - d. Requiring all or part of the discharge to be treated by an active treatment system prior to discharge; and/or,
 - e. Revoking coverage under this General Permit and requiring the discharger to obtain different NPDES permit coverage for discharges to waters of the United States.

L. Revising General Permit Coverage for Change of Acreage or Ownership

The discharger may reduce or increase the total disturbed acreage covered under this General Permit when: (1) a portion of the site meets conditions for termination of coverage (See Section I.N, Conditions for Termination of Coverage), (2) ownership of a portion of the site is sold to a different entity, or (3) new acreage subject to this General Permit is added to the site.

1. The discharger shall electronically certify and submit the following Permit Registration Document revisions in SMARTS within 30 days of the revised site conditions listed above:

- a. A revised Notice of Intent through a Change of Information indicating the new site size;
 - b. Revised site map(s) showing (as applicable) acreage currently under construction; acreage sold, transferred, and/or added; and acreage currently stabilized in accordance with the Conditions for Termination of Coverage in Section I.N below; and,
 - c. A revised SWPPP to match current site conditions and current personnel (QSD, QSP, and delegates).
 - d. The discharger shall comply with the following if the disturbed acreage of the site, parcel, or individual lot has decreased due to completing construction on a portion of the total disturbed acreage:
 - a. Post-construction requirements in Section XIV for the completed portions and upload supporting documentation through SMARTS; and
 - b. Conditions for Termination of Coverage for the completed portions (Section I.N).
2. When the disturbed acreage of the site has increased, the discharger shall submit the applicable fees, in accordance with the revised fee notification, within 14 calendar days of the notification date (the Change of Information will be returned if these fees are not received within 14 calendar days of the Change of Information submittal date).
 3. If the increased acreage is greater than one-fourth mile from the existing site boundary, the discharger is required to submit a new Notice of Intent.
 4. The discharger shall maintain General Permit coverage for any site, parcel, or individual lot that have not: (1) completed "Final Stabilization" as required in Conditions for Termination of Coverage (Section I.N), and (2) received Regional Water Board Notice of Termination approval.
 5. Prior to a change of ownership, the existing discharger shall submit a Notice of Termination and certification that the new owner has been notified of applicable requirements to obtain new General Permit coverage for the subject site, parcel, or individual lot. The existing discharger certification shall include the name, address, telephone number, and email address of the proposed

new owner in the Notice of Termination submitted through SMARTS.

6. The Legally Responsible Person's responsibility may be transferred to the new person within a company or organization without submitting a Notice of Termination if the Legally Responsible Person changes within a company or organization. The new Legally Responsible Person shall recertify all existing Notices of Intent with active WDID numbers through SMARTS.
7. General Permit coverage is not transferable to a new owner. The Legally Responsible Person for the new owner shall submit new Permit Registration Documents to obtain a WDID number in their name prior to continuing construction activities and/or installing final landscaping (including meeting conditions for termination of coverage). The Legally Responsible Person for the new owner shall enter the original project start date (initial date of disturbance) from the previous(s) owners.

M. Inactive Sites

1. Dischargers that do not have construction activities, passive treatment products, active treatment systems, and/or active equipment on their site may submit a Change of Information through SMARTS to amend their SWPPP and change the status of their site to inactive.
2. Upon Regional Water Board approval of the change to inactive status, sampling may be suspended, and monitoring and inspections may be reduced to the following conditions:
 - a. A QSP shall visit the inactive site at least once every 30 days, and 2 days prior to any forecasted precipitation event. The QSP shall conduct visual inspections of all BMPs listed in the SWPPP, ensure that BMPs are properly maintained, and provide a status report to the QSD within 7 calendar days of each inspection.
 - b. The QSD shall visit the site within 14 days of Regional Water Board approval of the change to inactive status. The QSD shall review the QSP inspection information and relevant data and amend the SWPPP to address problematic site conditions through the Change of Information process in SMARTS.

3. Inactive dischargers shall submit a Change of Information through SMARTS to amend their SWPPP and obtain coverage under this General Permit prior to initiating construction activities or the use of passive treatment products, active treatment systems, and/or active equipment on their site.

N. Conditions for Termination of Coverage

1. To terminate General Permit coverage, the Legally Responsible Person shall electronically certify and submit the required documentation (Section N.2 below) to demonstrate compliance with all General Permit coverage termination requirements, including post-construction BMPs and low impact development features.
2. The Legally Responsible Person shall electronically certify and submit the following through SMARTS to be considered for General Permit coverage and annual fee billing termination:
 - a. A complete Notice of Termination;
 - b. QSD-prepared final Notice of Termination inspection with the QSD name, and valid QSD certificate number or professional engineer/geologist license number;
 - c. A final site map; and,
 - d. Photos demonstrating final stabilization.
3. The Regional Water Board will consider a site, parcel, or individual lot complete and the Notice of Termination approved only when all portions of the site comply with all the following conditions:
 - a. The discharger has completed all construction activity and final stabilization requirements, construction-related equipment and temporary BMPs have been removed from the site, construction materials and wastes have been disposed of properly, soils disturbed by construction activities have been stabilized, and there is no greater potential for construction-related stormwater pollutants to be discharged into site runoff than prior to the construction activity.
 - b. Final stabilization materials shall:
 - i. Have a product life that supports the full and continued stabilization of the site;

- ii. Achieve stabilization without becoming trash or debris; and,
 - iii. Minimizes the risk of wildlife entrapment.
4. The discharger has ensured the QSD completed on-site visual observations, verified the site complies with all Notice of Termination requirements, including installation of post-construction stormwater runoff BMPs and low impact development features, and the Legally Responsible Person has included this information in the Notice of Termination certified and submitted through SMARTS;
5. The discharger has demonstrated that the site complies with all Notice of Termination conditions above (Section I.N) and all final stabilization conditions by one of the following methods:
 - a. **70 percent final cover method.** No computational proof required. Requires permanent vegetative cover to be evenly established over 70 percent of all disturbed and exposed areas of soil (non-paved or non-built). In areas that naturally have low vegetation coverage (e.g., deserts), 70 percent of natural conditions is acceptable. Photos of all site areas are required to verify compliance with the 70 percent final cover requirement.

OR:
 - b. **Revised Universal Soil Loss Equation (RUSLE or RUSLE2) method.** Computational proof required. Site conditions shall match values used in method computation. Photos of all site areas are required to verify pre-construction and post-construction conditions used in the computations.

OR:
 - c. **Custom method.** The discharger may use an analytical model or method other than d.ii above to demonstrate that the site complies with the “final stabilization” requirements. Photos of all site areas are required to verify the custom method used.
6. The Legally Responsible Person shall certify and submit a final site map, which was prepared by a QSD, as part of the Notice of Termination documents through SMARTS. The Notice of Termination final site map shall, at minimum, include the following:

- a. Elevation contours;
- b. Project boundaries and adjacent lands;
- c. Developed drainage basin boundaries and discharge location points;
- d. Site entrances and exits, lot boundaries, roads, structures, and features related to the project that may be used as a reference;
- e. Specific permanent erosion control BMPs, post-construction BMPs, and post-construction low impact development features;
- f. Individual erosion control BMPs (including final landscaping) identified using hatch patterns, symbols, or shading unique to each BMP;
- g. Location and orientation of all photos used to document final site conditions and demonstrate compliance with post-construction requirements of this General Permit; and,
- h. If applicable, areas of the site being transferred to new ownership, and the name and contact information of the owner.
- i. The Notice of Termination photo documentation for General Permit compliance verification shall include photos of the site's final site conditions; post-construction low impact development features (e.g., stormwater capture/treatment features); a description of the corresponding location and orientation of photos as indicated on the final site map; and,
- j. The Notice of Termination shall include information on the specification used and where to find the specification when post-construction features are constructed in accordance with local Phase I or II municipal codes and/or ordinances.

7. The Notice of Termination shall include a long-term maintenance plan¹³ for the post-construction stormwater runoff BMP and low impact development features being implemented.
8. The Notice of Termination is automatically approved 30 calendar days after the date of Notice of Termination submittal, unless, within the 30 calendar days the Regional Water Board notifies the discharger through SMARTS that the Notice of Termination has been denied, returned, or accepted for review.
9. All General Permit requirements remain in effect until the Notice of Termination is approved. The Legally Responsible Person will be notified through SMARTS communication when the discharger's General Permit coverage and corresponding WDID number are terminated.

II. DISCHARGE PROHIBITIONS

1. Dischargers shall comply with all applicable discharge prohibitions contained in applicable Basin Plans and statewide water quality control plans.
2. Discharges to Areas of Special Biological Significance (ASBS) are prohibited by the California Ocean Plan, unless granted an exception issued by the State Water Board.
3. All discharges from the site are prohibited except for the stormwater and non-stormwater discharges specifically authorized by this General Permit or another NPDES permit.
4. All of the following discharges are prohibited:
 - a. Debris and trash resulting from construction activities, in accordance with State Water Board Resolution 2015-0019, Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California;
 - b. If the discharger can satisfactorily demonstrate to the permitting authority its inability to comply with the outright

¹³ For the purposes of this requirement, a long-term maintenance plan shall be designed for a minimum of five years, and describe the responsible party(ies) and procedures to ensure that post-construction features are adequately maintained.

prohibition of the discharge of debris and trash, then the permitting authority may require the discharger to either:

- i. Install, operate, and maintain full capture systems for all storm drains that capture runoff from the facility or site regulated by the NPDES; or,
 - ii. Install, operate and maintain any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls for the facility or site regulated by the NPDES permit. The discharger shall demonstrate that such combination achieves full capture systems equivalency.
- c. Wastewater from washout or cleanout of areas, structures or equipment with concrete, grout, stucco, paint or other construction materials;
 - d. Form-release oils and curing compounds;
 - e. Fuels, oils, fluids, or other materials used in vehicle and equipment operation and maintenance;
 - f. Soaps, solvents, or detergents used in vehicle and equipment washing or external building wash-down;
 - g. Toxic or hazardous substances from a spill or other release (e.g., asbestos, lead, mercury, or PCBs).

III. SPECIAL PROVISIONS

A. Duty to Comply

1. The discharger shall comply with all General Permit conditions and requirements. Any General Permit non-compliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal of General Permit coverage.
2. The discharger shall comply with effluent standards or prohibitions established under Clean Water Act Section 307(a) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this General Permit has not yet been modified to incorporate the requirement.

B. General Permit Actions

1. This General Permit may be modified, revoked and reissued, or terminated for cause. The submittal of a request by the discharger for a General Permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated non-compliance does not annul any General Permit condition.
2. This General Permit shall be modified or revoked and reissued to conform if any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) promulgated under Clean Water Act Section 307(a) for a toxic pollutant which is present in the discharge and the standard or prohibition is more stringent than any pollutant limitation in this General Permit. The Water Boards shall provide the public and dischargers notice of the action.

C. Need to Halt or Reduce Activity Not a Defense

1. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this General Permit.

D. Duty to Mitigate

1. The discharger shall take all responsible steps to prevent any discharge from violating an effluent limitation and/or exceeding a numeric action level in this General Permit, including ceasing discharge as necessary.

E. Proper Operation and Maintenance

1. The discharger shall at all times properly install, operate, and maintain any treatment and control facilities, systems, related appurtenances, and backup or auxiliary systems (treatment control systems) which are installed or used by the discharger to achieve compliance with this General Permit's conditions.
2. The discharger shall include adequate laboratory controls and appropriate quality assurance procedures for all treatment control systems.

F. Property Rights

1. This General Permit does not: (1) convey any property rights of any sort or any exclusive privileges, (2) authorize any injury to private property or any invasion of personal rights, (3) or authorize any infringement of Federal, State, or local laws or regulations.

G. Duty to Maintain Records and Provide Information

1. The discharger shall maintain a paper or electronic copy of all required records, including a copy of this General Permit and all its attachments, appendices, and Fact Sheet, for three years from the date generated or date submitted whichever is later.
2. The discharger shall furnish the Water Boards or U.S. EPA, within a reasonable time, any requested information to determine compliance with this General Permit. The discharger shall also furnish, upon request, copies of records that are required to be kept by this General Permit.

H. Inspection and Entry

1. The discharger shall allow staff of the Water Boards, U.S. EPA, and/or, an authorized representative of the municipal separate storm sewer system receiving the discharge to:
 - a. Enter the site premises during a regulated construction activity and/or at the location where compliance records are maintained in accordance with this General Permit;
 - b. Access and copy any compliance records maintained in accordance with this General Permit;
 - c. Inspect the complete site, including any off-site staging areas or material storage areas, and the erosion/sediment controls;
 - d. Sample, monitor or install automated sampling equipment to ensure General Permit monitoring compliance; and,
 - e. Conduct bioassessment monitoring, receiving water monitoring, and/or evaluate the performance of BMPs.

I. Electronic Signature and Certification Requirements

1. All documents submitted to the water boards (including, but not limited to, Permit Registration Documents, Annual Reports, monitoring records, and Notices of Terminations) are required to

be certified by the Legally Responsible Person¹⁴ or a Duly Authorized Representative¹⁵ through SMARTS.

J. Certification

1. Any person signing documents under Section III.I above shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

2. Clean Water Act section 309(c)(4) provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit, including reports of compliance or non-compliance shall upon conviction, be penalized with a monetary fine of up to \$10,000 or by imprisonment for not more than two years, or both.

K. Anticipated Noncompliance

1. The discharger shall provide advance notice, in writing, to the applicable Regional Water Board and local stormwater management agency of any planned changes in site construction activities that may result in non-compliance with this General Permit.

L. Reporting of Contaminated Soils

1. The discharger shall have soils sampled and tested to ensure proper handling and public safety measures are implemented when soil contamination is found or suspected, and a responsible

¹⁴ Defined in this General Permit's Appendix 2 (Glossary)

¹⁵ Defined in this General Permit's Appendix 2 (Glossary)

party is not identified, or the responsible party fails to promptly take the appropriate action. The discharger shall notify the appropriate local, State (including the Regional Water Board), and federal agency(ies) when contaminated soil is found at a site.

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M. Bypass

1. Bypass¹⁶ is prohibited. The Regional Water Board may take enforcement action against the discharger for bypass unless the discharger demonstrates one or more of the following:
 - a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage¹⁷; or
 - b. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventative maintenance; or
 - c. The discharger allowed a bypass to occur that does not cause the exceedance of an effluent limitation(s), due to essential maintenance to assure efficient operation. In such a case, the above bypass conditions are not applicable. The discharger shall submit notice of any bypass to the Water Boards as a Change of Information through SMARTS; and
 - d. The discharger submitted a notice at least 14 calendar days in advance of the need for a bypass to the Regional Water Board, except where advance notice was not possible due to an emergency situation where the bypass was unavoidable to prevent loss of life, personal injury or severe property damage. The discharger unable to notify the Regional Water Board in advance of a bypass shall submit

¹⁶ The intentional diversion of waste streams from any portion of a treatment facility.

¹⁷ Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

written notification to the Regional Water Board within 14 days after the bypass occurs.

N. Requirements for Dischargers Claiming “No Discharge” through the Notice of Non-Applicability (NONA)

1. For the purpose of the NONA, “Entity” or “Entities” refers to the person(s) defined in Water Code Section 13399.30.
2. A NONA can only be claimed for a site if the discharger demonstrates, to the satisfaction of the Regional Water Board, that no stormwater or non-stormwater will discharge to a Waters of the United States. The discharger’s Legally Responsible Person shall certify and submit through SMARTS:
 - a. A written determination prepared by a California licensed professional geologist with appropriate hydrological expertise: (1) identifying the site by address or parcel number, and (2) providing technical justification that the subject site location does not discharge to waters of the United States; and
 - b. Written documentation signed by the applicable Regional Water Board Executive Officer stating Water Board concurrence with the discharger’s determination (2.a above) that the site location does not discharge to waters of the United States.

O. Upset

1. To establish an affirmative defense of an upset,¹⁸ a discharger must demonstrate the following through properly signed, contemporaneous operating logs or other relevant evidence:
 - a. The non-compliance discharge location;

¹⁸ An exceptional incident in which there is unintentional and temporary non-compliance with technology-based numeric effluent limitations because of factors beyond the reasonable control of the discharger. An upset event does not include a large storm event, wind event, or other natural weather-related force of nature. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

- b. The cause(s) of the upset;
 - c. The treatment facility was properly operated and maintained at the time of the upset;
 - d. The discharger submitted notice of the upset as required; and,
 - e. Any required remedial measures were implemented as soon as feasibly possible.
2. An administrative determination made before an action of noncompliance occurs is not a final administrative action subject to review.
 3. In an enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

P. Oil and Hazardous Substance Liability

1. This General Permit, or parts of this General Permit (including, but not limited to, the findings, requirements, conditions, and provisions) shall not be construed to preclude the institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties to which the discharger is or may be subject to under Clean Water Act Section 311.

Q. Severability

1. The provisions of this General Permit are severable; if any provision of this General Permit or the application of any provision of this General Permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this General Permit, shall not be affected thereby.

R. Reopener Clause

1. This General Permit may be modified, revoked and reissued, or terminated for cause due to promulgation of amended regulations, receipt of U.S. EPA guidance concerning regulated activities, judicial decision, or in accordance with 40 Code of Federal Regulations section 122.62, 122.63, 122.64, and 124.5.

S. Penalties for Violations of General Permit Conditions

1. Clean Water Act section 309 provides significant penalties for any person who violates a permit condition implementing Clean Water Act section 301, 302, 306, 307, 308, 318, or 405 or any permit condition or limitation implementing any such section in a permit issued under Section 402. Any person who violates any permit condition of this General Permit is subject to a civil penalty not to exceed \$37,500¹⁹ per calendar day of such violation, as well as any other appropriate sanction provided by Section 309 of the Clean Water Act.
2. Clean Water Act section 309(c)(4) provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained by this General Permit, including reports of compliance or non-compliance shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or both.
3. The Porter-Cologne Water Quality Control Act provides specific administrative, civil and criminal penalties, which in some cases are greater than those under the Clean Water Act.

T. Water Quality Based Corrective Actions²⁰

1. Upon determination by the discharger or written notification by the Regional Water Board delegate that construction stormwater, non-stormwater, and/or dewatering discharges contain pollutants that are in violation of Receiving Water Limitations (Section V) or in the event that a Responsible Discharger's discharge exceeds an

¹⁹ May be further adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act.

²⁰ Terms including, but not limited to, Responsible Dischargers, numeric effluent limitations and exceedances are defined in Appendix 2 of this General Permit.

applicable numeric effluent limitation (NEL) in Attachment H, the Discharger shall:

- a. Conduct a site assessment to identify pollutant source(s) within the site that are associated with construction activity and whether the BMPs described in the SWPPP have been properly implemented;
 - b. Evaluate the site's SWPPP and its implementation to determine whether additional BMPs or SWPPP implementation measures are necessary to reduce or prevent pollutants in all regulated discharges to comply with the Receiving Water Limitations (Section V) or applicable numeric effluent limitations in Attachment H; and,
 - c. Certify and submit, through SMARTS, documentation based upon the above site assessment and SWPPP evaluation that:
 - i. Additional BMPs and/or SWPPP implementation measures have been identified and included in the SWPPP to comply with the Receiving Water Limitations (Section V) or applicable numeric effluent limitations in Attachment H; or
 - ii. No additional BMPs or SWPPP implementation measures are required to reduce or prevent pollutants in all regulated discharges to comply with the Receiving Water Limitations (Section V) or applicable numeric effluent limitations in Attachment H.
2. The Regional Water Board delegate may reject the discharger's water quality based corrective actions and/or request additional supporting documentation.

U. Continuation of Expired General Permit

1. This General Permit continues in force and effect until the effective date of a new General Permit adopted by the State Water Board or the State Water Board rescinds this General Permit.

IV. EFFLUENT LIMITATIONS AND ACTION LEVELS

A. Narrative Effluent Limitations

1. Stormwater discharges, dewatering discharges, and authorized non-stormwater discharges regulated by this General Permit shall not contain a hazardous substance equal to or in excess of reportable quantities established in 40 Code of Federal Regulations section 117.3 and 302.4, unless a separate NPDES Permit has been issued to regulate those discharges.
2. Dischargers shall minimize or prevent pollutants in stormwater discharges, dewatering discharges, and authorized non-stormwater discharges through the use of controls, structures, and management practices set forth in the order and attachments of this General Permit that achieve best available technology (BAT) for toxic and non-conventional pollutants and best conventional technology (BCT) for conventional pollutants.

B. Numeric Action Levels (NALs)²¹

1. For Risk Level 2 and 3 sites, the numeric action level (NAL) for pH is provided as a range where the lower NAL is 6.5 pH standard units and the upper NAL is 8.5 pH standard units. An NAL exceedance for pH is the analytical result of a single sample, taken at the site's discharge location(s), that falls under the lower NAL or exceeds the upper NAL, as shown in Table 1 of this Section. Dischargers shall sample all stormwater discharges with a calibrated portable instrument for pH or analyze for pH using field methods in accordance with 40 Code of Federal Regulations Part 136. If there is an exceedance, the discharger shall implement corrective actions to maintain pH within the NAL range.
2. For Risk Level 2 and 3 sites or authorized dewatering discharges, the NAL for turbidity is 250 Nephelometric Turbidity Units (NTU). An exceedance of the turbidity NAL occurs when the analytical result of a single sample, taken at the site's discharge location(s), is over 250 NTU. All sampling for turbidity shall be conducted with a calibrated turbidity meter following manufacturer's instruction and using field methods in accordance with 40 Code of Federal Regulations Part 136.

²¹ Refer to Appendix 2 of this General permit for the definitions of NALs and NAL exceedances.

Table 1 - Numeric Action Levels, Test Methods, Detection Limits, and Reporting Units

Parameter	Test Method	Discharge Type	Method Detection Limit	Units	Numeric Action Level (NAL)
pH	Field test with calibrated portable instrument using EPA approved procedures	Risk Level 2 and Risk Level 3	0.2	pH Units	Lower NAL = 6.5 Upper NAL = 8.5
Turbidity	EPA 0180.1 and/or field test with calibrated portable instrument	Risk Level 2 and Risk Level 3	1	NTU	250 NTU

3. When a single sampling result obtained from a precipitation event is below the lower NAL for pH, exceeds the upper NAL for pH, or exceeds the turbidity NAL (as listed in Table 1), the discharger shall conduct a site and run-on evaluation to determine whether pollutant source(s) associated with the site’s construction activity may have caused or contributed to the NAL exceedance and shall immediately implement corrective actions.
4. Run-on water flowing onto a managed site from off-site areas may be separated from a site’s stormwater discharge to eliminate commingled contribution. Run-on diversion shall occur prior to entering an area affected by construction activity. Run-on flow diversion shall be conveyed through or around the construction activity in plastic pipe or an engineered conveyance channel in a manner that will not cause erosion due to flow diversion. Run-on combined with a site’s stormwater discharge is considered a stormwater discharge.
5. The discharger shall use a Qualified SWPPP Developer (QSD) to verify if the implemented BMPs during construction are as protective as pre-construction conditions using RUSLE2 or an equivalent modeling technique when a NAL exceedance occurs. If the BMPs are found to not be as protective as pre-construction conditions, the QSD shall revise the SWPPP and specifically address the source(s) of the pollutants causing the NAL

exceedance by implementing additional BMPs to eliminate future NAL exceedances.

V. RECEIVING WATER LIMITATIONS

1. The discharger shall ensure that stormwater discharges, dewatering discharges, and authorized non-stormwater discharges to any surface or ground water will not adversely affect human health or the environment.
2. The discharger shall ensure that stormwater discharges, dewatering discharges, and authorized non-stormwater discharges will not contain pollutants in quantities that threaten to cause pollution or a public nuisance.
3. The discharger shall ensure that stormwater discharges, dewatering discharges, and authorized non-stormwater discharges will not contain pollutants that cause or contribute to an exceedance of any applicable water quality objectives or water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule, the National Toxics Rule, or the applicable Regional Water Board's Water Quality Control Plan (Basin Plan).
4. Responsible Dischargers shall comply with the applicable TMDL implementation requirements in Attachment H of this General Permit, including TMDL-specific additional BMPs and site pollutant modeling, numeric action levels, and/or numeric effluent limitations.

VI. DISCHARGES SUBJECT TO THE CALIFORNIA OCEAN PLAN

A. Discharges to Ocean Waters

1. Dischargers that discharge directly into ocean waters that are subject to the model monitoring provisions of the California Ocean Plan shall be deemed in compliance with applicable California Ocean Plan model monitoring provisions when in compliance with monitoring requirements of this General Permit.
2. The Regional Water Boards may require a discharger that discharges directly into ocean waters who has demonstrated non-compliance with this General Permit's monitoring requirements to develop and implement a monitoring plan in compliance with additional effluent and ocean monitoring provisions established pursuant to Water Code Section 13383.

B. Discharge Granted an Exceptions for Areas of Special Biological Significance (ASBS)

1. Dischargers who were granted an exception to the California Ocean Plan prohibition of discharges of waste to an ASBS pursuant to Resolution 2012-00127 amended by Resolution 2012-00318 shall comply with the conditions and requirements set forth in Attachment I of this General Permit. Any Discharger that applies for and is granted an exception to the California Ocean Plan prohibition after July 1, 2013 shall comply with the conditions and requirements set forth in the granted exception.

VII. DISCHARGER ROLES AND SITE PERSONNEL**A. Legally Responsible Person**

1. The Legally Responsible Person, as defined in Appendix 2, is responsible for all site project activity affiliated with General Permit compliance and non-compliance.
2. The Legally Responsible Person shall ensure that the SWPPP and any required amendments are developed by a certified QSD. SWPPP changes or amendments shall be uploaded through SMARTS within 14 calendar days.
3. The Legally Responsible Person shall ensure that all persons responsible for implementing this General Permit's requirements for a project shall be appropriately licensed or certified in accordance with this General Permit. For example, the Legally Responsible Person shall verify personnel serving as QSD(s) or QSP(s) have an active and current certificate, and engineering and/or geology work performed for the site is conducted by a California licensed professional.
4. The Legally Responsible Person shall ensure that the correct construction start and end date are:
 - a. Used for each regulated construction project;
 - b. Listed in SMARTS; and,
 - c. Included on the unique WDID notification form in a site location viewable by the public.
5. The Legally Responsible Person shall ensure project data and contact information is current in SMARTS.

B. Becoming a Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP)

A QSD or QSP certification is obtained by completing the following steps:

1. Complete a required prerequisite to take the QSP or QSD training course;
2. Complete the QSD or QSP training course;
3. Pass the QSP or QSD exam; and,
4. Register as a QSD or QSP through the California Stormwater Quality Association (CASQA).

A QSP applicant shall possess one of the prerequisites:

1. A certified erosion, sediment and stormwater inspector registered through Enviro Cert International, Inc.;
2. A certified inspector of sediment and erosion control registered through Certified Inspector of Sediment and Erosion Control, Inc.;
3. A certification from a State Water Board-sponsored or approved QSP prerequisite training course; or,
4. A Construction Management degree from an accredited 4-year institution that includes underlying principles of erosion and sediment control and practices of reducing pollution in stormwater.
5. Any prerequisite course approved by the State Water Board's Division of Water Quality Deputy Director in accordance with Section VII.G.1.

A QSD shall possess one of the following prerequisites:

1. A California professional engineer registration;
2. A California professional geologist or engineering geologist registration;
3. A California landscape architect registration;
4. A professional hydrologist registration through the American Institute of Hydrology;
5. A Certified Professional in Erosion and Sediment Control (CPESC)[™] registration through EnviroCert International, Inc.;

6. A Certified Professional in Stormwater Quality (CPSWQ)TM registration through EnviroCert International, Inc.; or,
7. A Certification from a State Water Board-sponsored or approved QSD prerequisite training course.
8. Any prerequisite course approved by the State Water Board's Division of Water Quality Deputy Director in accordance with Section VII.G.1.
9. A California licensed professional engineer, land surveyor, or geologist may self-certify their responsibility to act as a QSD with the State Water Board through SMARTS.
10. Consistent with Title 16, California Code of Regulations, Section 475 Code of Professional Conduct, a California Board for Professional Engineers Land Surveyors and Geologists (CBPELSG) licensee shall provide service for a project in a manner that is consistent with the laws, codes, ordinances and regulations applicable to that project. A CBPELSG licensee shall not misrepresent their scope of authority affiliated with their professional license.
11. The State Water Board expects that a CBPELSG licensee serving a discharger enrolled in this General Permit has thorough knowledge of the conditions and requirements of this General Permit and the required supporting documents and information. A CBPELSG licensee serving a discharger shall have a fundamental knowledge of erosion and sediment control, and best management practices for treating site pollutants to protect waters of the United States.
12. A CBPELSG licensee may use their license as a prerequisite of a QSD/QSP course prior to taking the QSD/QSP exam for the QSD/QSP certificate.
13. A QSD may perform the work of a QSP.

C. Discharger Responsibilities for Qualified SWPPP Developer (QSD) Performance

1. The Discharger shall retain a QSD from the project beginning through the approved Notice of Termination.
2. The Discharger shall ensure that a QSD reviews visual observation reports and sampling data prior to the electronic submittal through SMARTS. The QSD is required to assess how construction activities will affect sediment transport, erosion, and

other discharges of pollutants in stormwater runoff in the SWPPP design and implementation. The QSD is required to revise the SWPPP to address potential problems identified by visual observations, sampling data, comments from the QSP, or their own site observations.

3. The QSD is required to include in the SWPPP the name, email, and phone number of all the QSP-trained delegate(s).
4. The Discharger shall ensure that the QSD performs the required²² on-site visual observations in Section E below during the following time periods:
 - a. Within 30 days of construction activities commencing on a site;
 - b. Within 30 days of a discharger replacing a site's QSD;
 - c. Within 14 days of starting a new construction phase;
 - d. Prior to verification of compliance with regulatory coverage termination requirements and preparation of required documents (Change of Information or Notice of Termination) for all or part of a site;
 - e. Within 14 calendar days after a numeric action level exceedance; and,
 - f. Within the time period requested in writing from Water Board staff.
5. The discharger shall ensure that the QSD completes an on-site evaluation form through SMARTS after each site visit. The on-site evaluation form will be used to auto populate the Annual Report. The on-site evaluation is a series of questions based on this General Permit's requirements.

D. Discharger's Responsibilities for Qualified SWPPP Practitioner (QSP) Performance

²² This on-site visual observation requirement is a minimum value and may be increased by the discharger or QSD during times of high-risk construction activities, excessive site problems, or other conditions that warrant increased oversight by the QSD.

1. The discharger shall ensure that a QSP reviews work performed by designated staff including sampling, analysis, and other required tasks listed in the SWPPP.
2. The discharger shall have a QSP perform on-site visual observations²³ at the following times:
 - a. Once every 14 days;
 - b. Within 14 days after a numeric action level exceedance the QSP shall visually inspect drainage area of exceedance and document any areas of concern;
 - c. Prior to the submittal of General Permit Notice of Termination or Change of Information (for acreage changes) of all or part of a site; and,
 - d. Within 72 hours prior to a forecasted precipitation event that has a probability of precipitation of 50% or greater when the site has any BMP deficiencies, poorly performing BMPs, a numeric action level exceedance, or unresolved corrective actions. The QSP shall inspect areas of concern to verify the status of any deficiencies, BMPs, or other identified issues at the site.
3. The discharger shall ensure that the QSP verifies the following:
 - a. All BMPs required in the SWPPP are implemented, correctly installed, inspected, and maintained;
 - b. Track out of construction related material at site entrances and exits is controlled;
 - c. The SMARTS generated WDID notification form in a site location viewable by the public, kept up to date, and the start and end dates are correct and match the dates listed in SMARTS for the project;
 - d. Sampling protocols for stormwater and non-stormwater discharges are correctly performed as described in the

²³ This on-site visual observation requirement is a minimum value and may be increased by the Discharger or QSD during times of high-risk construction activities, excessive site problems, or other conditions that warrant increased oversight of the site.

SWPPP by on-site trained personnel delegated by the QSP (including, but not limited to, taking representative samples of the runoff);

- e. Contact information including, name, phone number and email address, is updated within 14 days of a change and correct as listed in SMARTS for the discharger, QSD, and QSP; and,
 - f. Photo documentation is included in the SWPPP evaluation form for: problem areas of erosion, new sediment deposition, unauthorized non-stormwater discharges, and/or failed BMPs.
4. The discharger shall electronically certify and submit uploaded sampling data and visual observation reports through SMARTS within 14 calendar days after conclusion of the observation and/or sampling event.

E. Discharger's Responsibilities for Delegates' Performance

1. The discharger may authorize a QSP to delegate visual monitoring and/or discharge sampling to an individual site staff that has received training for the site-specific BMPs in the SWPPP (delegate). The discharger shall ensure the QSP provides site-specific training and a log of each individual trained on the site-specific SWPPP when delegating the following requirements for this General Permit to an individual:
 - a. Installation and maintenance of BMPs;
 - b. Verification that BMPs are functioning between QSP visits; and
 - c. Sampling stormwater and non-stormwater discharges.
2. The discharger shall ensure the following for QSP-delegates:
 - a. The QSP has determined the delegate(s) can perform the visual monitoring and sampling tasks prior to fully delegating the responsibility to the individual;
 - b. The delegate(s) name, email, and phone number are included in the SWPPP and kept current in the certified and submitted SWPPP in SMARTS;
 - c. The current delegate(s) are maintained in the certified and submitted SWPPP in SMARTS through a SWPPP

amendment (Change of Information) prior to the delegate performing the delegated function;

- d. The QSP is physically present during the delegate's first visual monitoring and sampling event; and,
 - e. The delegate(s) have a competent understanding of the sampling procedures, the BMPs used on the site, and the system used to record and report issues back to the QSP within 24 hours when a corrective action is needed.
3. Having a delegate does not replace the QSP requirements of Section VII.D and does not replace the QSD requirements in Section VII.C.

F. Pre-existing QSP and QSD qualification

1. A QSD or QSP who maintained a valid certification at the effective date of this General Permit shall recertify their certification through (1) their underlying certification entities and California Stormwater Quality Association, or (2) self-certify when they are a California licensed professional engineer or California licensed professional geologist.

G. QSP and QSD Prerequisite course qualification

1. A California Stormwater Quality Association certified Construction General Permit Trainer of Record (CGP ToR) may request the State Water Board's Division of Water Quality Deputy Director, to review and approve the qualification of additional prerequisite courses for QSP and QSD certification. The course curriculum shall: meet an acceptable level of training, be developed or reviewed by a college with Accreditation Board for Engineering and Technology, Inc. (ABET) accreditation, and be submitted to the State Water Board for review by the CGP ToR. If approved, the course will be listed on the State Water Board's Construction Stormwater Program website as an approved prerequisite course.

H. Water Board Rescission of a QSP or QSD Certification

1. The State Water Board Executive Director or a Regional Water Board Executive Officer may:
 - a. Require additional training for the QSD or QSP; and/or
 - b. Rescind any QSD or QSP certification if the Executive Director or Executive Officer finds, in writing, that the QSD or QSP has repeatedly demonstrated an inadequate level of performance in completing the QSD or QSP requirements in this General Permit or evidence pertaining to Section III.J.2 above.
2. Enforcement actions may be taken against any individual or organization, including a site's Legally Responsible Person, if the State Water Board's Executive Director or a Regional Water Board's Executive Officer find, in writing, that:
 - a. A site inspection report was completed without there having been an inspection for that report; or,
 - b. An inspection report identifies an inspector other than the individual who performed the inspection for that report.
 - c. An individual whose QSD or QSP certification has been rescinded may request the State Water Board to review the rescission. Any request for review must be received by the State Water Board no later than 30 days after the date that the individual received written notice of the rescission.
 - d. Complaints made to the State Water Board or a Regional Water Board regarding work performed by a CBPELSG Licensee must be submitted to the Department of

Consumer Affairs, Board for Professional Engineers, Land Surveyors and Geologists.

VIII. RISK DETERMINATION

1. The discharger shall calculate the site's sediment risk and receiving water risk during all phases of construction activity (e.g., demolition and pre-development site preparation, grading and land development, streets and utilities, vertical construction, final landscaping and site stabilization).
2. SMARTS will assign the higher Risk Level to the entire site for any site spanning two or more planning watersheds²⁴.
3. Sites, parcels, or individual lots that are part of a larger plan of development shall include the larger plan of development in Risk Level determination. The discharger shall include this determination in the Permit Registration Documents submittal.
4. Dischargers may request that the Regional Water Board revise the site-specific Risk Level calculation values in SMARTS by providing the following information to the Regional Water Board:
 5. A site-specific soils test certified by a California licensed professional engineer or geologist. The soil testing must include the soil classification method used (e.g., Unified Soil Classification System);
 6. A site-specific survey of the elevation change used in the revised Risk Level calculation certified by a professional licensed by the California Board of Professional Engineers, Land Surveyors and Geologists for this work; and,
 7. A revised Risk Level calculation hand calculated in accordance with Appendix 1 of this General Permit.

²⁴ [Planning watershed](https://edg.epa.gov/metadata/catalog/search/resource/details.page?uuid=%7BCE93EE98-7348-4253-978B-CDBBAEEAE6E8%7D): defined by the Calwater Watershed documents as a watershed that ranges in size from approximately 3,000 to 10,000 acres. California Department of Water Resources, Planning Watershed Polygons, California (May 2004).
<<https://edg.epa.gov/metadata/catalog/search/resource/details.page?uuid=%7BCE93EE98-7348-4253-978B-CDBBAEEAE6E8%7D>> [as of October 19, 2020].

IX. RISK LEVEL 1 REQUIREMENTS

1. Risk Level 1 dischargers shall comply with the requirements included in Attachment C of this General Permit.

X. RISK LEVEL 2 REQUIREMENTS

1. Risk Level 2 dischargers shall comply with the requirements included in Attachment D of this General Permit.

XI. RISK LEVEL 3 REQUIREMENTS

1. Risk Level 3 dischargers shall comply with the requirements included in Attachment E of this General Permit.

XII. ACTIVE TREATMENT SYSTEM REQUIREMENTS

1. Dischargers implementing an active treatment system on-site shall comply with all of the requirements in Attachment F of this General Permit.

XIII. PASSIVE TREATMENT REQUIREMENTS

1. Dischargers implementing a Passive Treatment system on-site shall comply with all the requirements in Attachment G of this General Permit.

XIV. POST-CONSTRUCTION REQUIREMENTS

1. All dischargers shall implement BMPs to reduce pollutants in stormwater discharges that are reasonably foreseeable after all construction phases have been completed at the site (post-construction BMPs).
2. All dischargers shall comply with the following post-construction runoff reduction requirements unless the discharger is required to comply with equivalent or more stringent post-construction requirements of an existing NPDES Phase I or II municipal separate storm sewer system (MS4) permit. The discharger shall comply with this General Permit's post-construction requirements if the PRDs were submitted prior to the effective date of applicable post-construction requirements of an adopted Phase I or Phase II MS4 permit.
3. The discharger shall upload an attachment containing the applicable post-construction requirements and/or web-source with their PRDs submittal through SMARTS if the post-construction

requirements of an applicable MS4 permit are more stringent than this General Permit.

4. The discharger shall use non-structural and structural measures to replicate the pre-project water balance (for this General Permit, defined as the volume of rainfall that ends up as runoff) for the smallest storms up to and including the 85th percentile, 24-hour storm event (or the smallest storm event that generates runoff, whichever is larger).
5. When runoff volume cannot be managed using non-structural controls, the discharger shall demonstrate that non-structural practices are:
 - a. technically infeasible;
 - b. economical impracticable; and,
 - c. the structural controls will result in greater protection against water quality impacts.
6. The discharger shall certify that the local Regional Water Board approved the use of structural controls. The discharger shall submit the above documentation as an additional Permit Registration Document.
7. For sites with disturbed area exceeding two acres, the discharger shall preserve the pre-construction drainage density (miles of stream length per square mile of drainage area) for all drainage areas within the area serving a first order stream²⁵ or larger stream and ensure that post project time of runoff concentration is equal to or greater than pre-project time of concentration.

XV. STORMWATER POLLUTION PREVENTION PLAN (SWPPP) REQUIREMENTS

- A. The discharger shall ensure the site's SWPPP complies with the below conditions:
 1. A site-specific SWPPP is developed and amended by a QSD. The discharger is responsible for keeping the SWPPP and associated

²⁵ A first order stream is defined as a stream with no tributaries.

documents correct in SMARTS and consistent with QSD and QSP site visits to reflect current site conditions.

2. The discharger is ultimately responsible to ensure trained personnel and BMP materials are available at the site as required by this General Permit.
3. The SWPPP includes the implementation of BMPs that comply with BAT, BCT, and water quality standards; additional BMPs based on input from the QSP to address numeric action level and numeric effluent limitation exceedances; and additional training needed for the QSP, Legally Responsible Person, or designated persons on-site.
4. The SWPPP includes the implementation of BMPs that comply with Water Quality Standards, protect Beneficial Uses, and address applicable Total Maximum Daily Loads implementation requirements (in Attachment H);
5. The discharger is required to review the SWPPP and the specific stormwater management work being performed on the site with the QSD and QSP. The SWPPP shall include the signatures of the Legally Responsible Person, QSD, and QSP certifying that the Legally Responsible Person and QSP have received site-specific training on the contents of the SWPPP.
6. The SWPPP shall be available at the site and made available upon request by a federal, State, or municipal inspector. When the original SWPPP is retained by a crewmember in a construction vehicle and is not currently at the site, current copies of the BMPs and map/drawing shall be left with the field crew and the original SWPPP shall be made available through a request by radio or telephone. A current copy of the site-specific SWPPP and any site inspection reports required by this General Permit may be kept in electronic format at the site so long as the information requested by a federal, State, or municipal inspector can be made available during an inspection. All maps shall be legible and available in hard copy at the site.

B. The SWPPP shall include:

1. Identification of all pollutants, their sources, and control mechanism, including sources of sediment associated with all construction activities (e.g., sediment, paint, cement, stucco, cleaners, site erosion etc.);

2. Scheduled sequence of major activities, including implementation of BMPs that minimize the impacts to waters of the United States. Major activities included but are not limited to clearing, grubbing, demolition, excavating, grading, soil stockpiling, utility installation, hardscape, vertical build, post-construction BMP installation, and the installation of BMPs and planting to reach final stabilization;
3. Description of site-specific BMPs implemented to reduce or eliminate stormwater pollution, including those implemented to address applicable Total Maximum Daily Loads implementation requirements (in Attachment H);
4. Site-specific BMPs initialized immediately to temporarily stabilize an area disturbed by construction where construction activities will not be resumed within 14 days;
5. Identification, elimination, control, or treatment information for all non-stormwater discharges from the site not regulated by another NPDES permit;
6. Description of efforts to minimize pollutants discharged from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge.
7. Description of efforts to minimize exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).
8. Description of efforts to minimize pollutants discharged from spills and leaks and the implementation of chemical spill and leak prevention and response procedures.
9. Pollutant source assessment documentation, including all non-visible pollutants and pollutants associated with Total Maximum Daily Loads, that are known or should be known to occur on the site with the potential to discharge, including but not limited to, materials that:
 - a. Are being used in construction activities;

- b. Are stored on the site;
 - c. Were spilled during construction operations and not cleaned up;
 - d. Were stored (or used) in a manner that created the potential for a release of the materials during past land use activities;
 - e. Were spilled during previous land use activities and not cleaned up; or,
 - f. Were applied to the soil as part of past land use activities.
10. All visual observations methods and protocols;
11. All sampling and handling methods and protocols;
12. Title Sheet with:
- a. Project Name;
 - b. Project Location (Vicinity Map);
 - c. Preliminary Schedule of Activities;
 - d. Site Operating Hours (hours when construction activities are occurring);
 - e. Index of Attachments;
 - f. Project QSD(s) and QSP(s) contact information (name, phone numbers, license or certification number)
 - g. Signature of the QSD(s) who prepared the SWPPP; and,
 - h. Signature of the Legally Responsible Person and the QSP(s).
13. Pre-Earthwork Drawing with:
- a. Site layout (existing topography);
 - b. Site and project boundaries;
 - c. Areas disturbed during geotechnical or other preconstruction investigation work;
 - d. Existing roads and trails;

- e. Drainage areas;
- f. Discharge locations;
- g. Sampling locations;
- h. Locations of erosion control BMPs;
- i. Locations of sediment control BMPs;
- j. Locations of run-off BMPs;
- k. Temporary and/or permanent run-on conveyance (if applicable);
- l. Locations of all sediment control BMPs;
- m. Locations of sensitive habitats, watercourses, features which are not to be disturbed, contaminated areas, or other relevant features and associated BMPs; and,
- n. Locations of storage areas for waste, construction materials, project staging areas, stockpiles, vehicles, equipment and vehicle maintenance, loading/unloading of materials, site access (entrance/exits), fueling, water storage, water transfer for dust control, demolition, compaction areas, and areas of other construction support activities.

14. Construction and Earthwork Drawing(s) with:

- a. Site layout (grading plans) including roads;
- b. Site and project boundaries;
- c. Drainage areas;
- d. Discharge locations;
- e. Sampling locations;
- f. Areas of soil disturbance (temporary or permanent);
- g. Active areas of soil disturbance (cut or fill);
- h. Locations of erosion control BMPs;
- i. Locations of sediment control BMPs;

- j. Locations of run-off BMPs;
- k. Temporary and/or permanent run-on conveyance (if applicable);
- l. Locations of active treatment systems(s) (if applicable);
- m. Locations of sensitive habitats, watercourses, or other features which are not to be disturbed; contaminated areas, or other relevant features and associated BMPs; and,
- n. Locations of storage areas for waste, construction materials, project staging areas, stockpiles, vehicles, equipment and vehicle maintenance, loading/unloading of materials, site access (entrance/exits), fueling, water storage, water transfer for dust control, demolition, compaction areas, and areas of other construction support activities.
- o. Calculations and design details for site run-on BMPs;
- p. Calculations and design details for site run-off BMPs;
- q. Detailed instructions on how to maintain sediment and erosion control BMPs used at the site;
- r. Procedures for removing temporary BMPs and any associated disturbed sediment;
- s. RUSLE2 calculations when used (all Risk Level 2/Linear Underground and Overhead Project Type 2, Risk Level 3/Linear Underground and Overhead Type 3 sites); and,
- t. Site-specific procedures to implement final stabilization BMPs as soon as reasonably practicable.

XVI. ANNUAL REPORTING REQUIREMENTS

- A.** All dischargers assigned a WDID number shall submit an Annual Report through SMARTS by September 1st for the previous reporting period from July 1st through June 30th. SMARTS will auto populate the Annual Report based on the information input through SMARTS throughout the reporting period.
- B.** An Annual Report must be submitted if a WDID is active for at least 90 days within the reporting period.

- C. The discharger shall electronically certify and submit the site's Annual Report no later than September 1st of each year, and prior to submitting a Notice of Termination in accordance with Section I.N of this General Permit.
- D. The discharger shall retain an electronic copy or hard copy of each Annual Report for a minimum of three years after the date the Annual Report is certified.
- E. The Annual Report shall consist of the following:
 - 1. The summary of all stormwater sampling and monitoring reports;
 - 2. The summary of all corrective actions taken during the compliance year;
 - 3. The identification of any compliance activities or corrective actions that were not implemented;
 - 4. The summary of all the General Permit violations;
 - 5. The names of individual(s) who performed the facility inspections, sampling, visual inspections, and/or measurements;
 - 6. The date, place, time of facility inspections, sampling, visual inspections, and/or measurements, including precipitation snow depth/rain gauge; and,
 - 7. The visual observations and sample collection exception records and reports specified in the applicable Attachments A, C, D, and/or E.

XVII. REGIONAL WATER BOARD AUTHORITIES

- A. Regional Water Boards (as defined in Appendix 2) may terminate General Permit coverage upon determination that a discharger has failed to comply with General Permit requirements. The Regional Water Boards may also terminate General Permit coverage upon determination that the subject discharges must be regulated through a separate Regional Water Board-issued NPDES permit.
- B. Regional Water Boards may require a discharger to comply with additional Monitoring and Reporting Program requirements, including but not limited to, sampling and analysis of discharges and/or increasing the frequency of inspections and recommendations by the Qualified SWPPP Developer and Qualified SWPPP Practitioner.

- C. Regional Water Boards may allow a discharger to comply with reduced Monitoring and Reporting Program requirements, including but not limited to, suspending sampling and analysis of discharges and/or decreasing the frequency of inspections.
- D. Monitoring information or data collected by Water Board staff may be used to determine permit compliance when the discharger has not complied with all sampling requirements in this General Permit.
- E. Regional Water Boards may require dischargers to retain records for more than the three years required by this General Permit.
- F. Regional Water Boards may obtain site-specific data, records, or documentation demonstrating one or more numeric action level exceedances occurred at a site and may direct the discharger to revise their SWPPP and/or BMPs²⁶ to address the exceedance.
- G. Consistent with Water Code Section 13350(a) and/or 13376, Regional Water Boards finding a discharger in violation of a prohibition or requirement in this General Permit with the potential to discharge pollutants into the waters of the United States, may require a discharger to revise and re-submit the SWPPP, other required documents and/or implement additional BMPs to address the inadequate site-specific conditions in violation of this General Permit.
- H. Consistent with 40 Code of Federal Regulations section 122.26(a)(9)(i)(D) and 122.26(a)(9)(i)(C), a Regional Water Board or its delegate may require any discharge of stormwater and non-stormwater from construction activity that is not regulated by this General Permit, and that may cause or contribute to an exceedance of a water quality standard, to obtain General Permit coverage.
- I. A Regional Water Board Executive Officer has the authority to require a Risk Level determination to be performed on a site currently regulated under this General Permit, or with an active Waiver, as deemed necessary. The following circumstances may require the Regional Water Board Executive Officer to require a Risk Level determination to be

²⁶ BMPs include scheduling of activities, prohibitions of practices, operation and maintenance procedures, treatment, vegetated infiltration basins, and other management practices and structural controls used to prevent or reduce the discharge of pollutants from runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage to waters of the United States.

performed on a site currently regulated under this General Permit, or with an active Waiver:

1. The discharger has a demonstrated history of General Permit non-compliance with this General Permit or its predecessors;
 2. The subject construction site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements; or,
 3. The Regional Water Board staff have documented that the discharger Risk Level for the subject site is calculated incorrectly.
- J. All Regional Water Board actions that modify requirements for compliance, pursuant to California Water Code Section 13267, with this General Permit shall be provided to the Legally Responsible Person, by Regional Water Board or State Water Board staff, in writing and submitted through the current Water Board-approved system²⁷ (the Stormwater Multiple Application and Report Tracking System, or SMARTS) within 30 days of the action.

²⁷ Currently the Stormwater Multiple Application and Report Tracking System (SMARTS). Upon the Water Board notifying the permittee in writing that this Water Board-approved system has changed, the permittee shall use the newly specified system.