

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD  
1001 I Street Sacramento, CA 95814  
<https://www.waterboards.ca.gov>

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

ORDER WQ 2022-0057-DWQ  
NPDES NO. **CAS000002**

This Order was adopted by the State Water Resources Control Board on:	September 8, 2022
This Order shall become effective on:	September 1, 2023
The statewide programmatic permitting option per Section III.B.4 of this Order shall become effective on:	December 17, 2022
This Order shall expire on:	August 31, 2028

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, 2023, (2) enforcement purposes, and (3) as set forth in Section III.C of this Order. 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 § 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act and regulations and guidelines adopted thereunder.

IT IS ALSO HEREBY ORDERED that on or after December 17, 2022, a discharger deploying Executive Order N-73-20 may obtain regulatory coverage through the statewide programmatic permitting option in Section III.B.4 under Order 2009-0009-DWQ as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ until September 1, 2023.

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 September 8, 2022.

AYE: Chair E. Joaquin Esquivel  
Board Member Sean Maguire  
Board Member Laurel Firestone  
Board Member Nichole Morgan

NAY: None

ABSENT: Vice Chair Dorene D'Adamo

ABSTAIN: None

  
\_\_\_\_\_ for  
Jeanine Townsend  
Clerk to the Board

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## I. FINDINGS

### **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.) §§ 1311 and 1342(p); also referred to as Clean Water Act §§ 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, 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. The NPDES permit shall also include any additional requirements necessary to achieve applicable water quality standards.
2. Consistent with Water Code, § 13374, 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. A "discharger" is a person, as defined in Water Code § 13050(c), which includes companies and governmental bodies, subject to this General Permit who is responsible for compliance with this General Permit. The discharger designates the Legally Responsible Person(s) to serve as a primary signatory when required to sign, certify, and submit documents or information for this General Permit. The Legally Responsible Person(s) may also designate a Duly Authorized Representative(s) to sign, certify, and submit documents or information for this General Permit. "Discharger" and the designated "Duly Authorized Representative" are further defined in Attachment B of this General Permit.
4. This General Permit regulates discharges to waters of the United States from stormwater 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 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 E).

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 § 21100, et seq.), pursuant to § 13389 of the California Water Code.
8. Regional Water Quality Control Boards (Regional Water Boards) establish water quality standards in water quality control plans. The State Water Board establishes water quality standards in various statewide water quality control 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 § 131.12 and State Water Board Resolution No. 68-16 (antidegradation policy), which incorporates applicable requirements of § 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 antidegradation policy. The federal antidegradation policy requires that “existing instream uses and the level of water quality necessary to protect the existing uses” are maintained and protected. If the baseline quality of a waterbody for a given constituent “exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected” through the requirements of this Order unless the State Water Board makes findings that: (1) any lowering of the water quality is “necessary to accommodate important economic or social development in the area in which the waters are located”; (2) “water quality adequate to protect existing uses fully” is assured; and (3) “the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control” are achieved. For high quality waters, Resolution No. 68-16 requires findings that any lowering of water quality is “consistent with the maximum benefit to the people of the State” and “will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies” and further that the discharge is subject to “waste discharge requirements which will result in the best practicable treatment or control of the discharge.”
10. The State Water Board finds that the permitted discharges authorized by this Order are consistent with the antidegradation provision of 40 CFR §131.12 and State Water Board Resolution No. 68-16, as set forth in Section I.H.2 in the Fact Sheet.

11. This General Permit serves as an NPDES permit in compliance with Clean Water Act § 402 and will be effective on September 1, 2023, except for the statewide programmatic permitting option per Section III.B.4 of this Order which will go into effect on December 17, 2022, 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.
12. The Regional Water Boards and the 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.
13. 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 Water Board to obtain authorization for the discharge of dredged or fill material to waters of the state.
14. The 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 § 404, and by the Water Boards under Clean Water Act § 401. The 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. This General Permit does not authorize discharges of fill or dredged material regulated by the U.S. Army Corps of Engineers under CWA § 404 and does not constitute a waiver of water quality certification under CWA § 401.
15. 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.
16. The State Water Board heard and considered all comments and testimony in a public hearing on August 4, 2021, as publicly noticed in accordance with state and federal laws and regulations. The State Water Board has prepared written responses to all significant comments.
17. The Homeland Security Act of 2002 (U.S. 116 STAT. 2135 and Title 6 U.S. Code Chapter 1 § 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 and authorized non-stormwater discharges by this General Permit or another NPDES permit

issued by the State Water Board or a Regional Water Board. 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 §§ 117.3 and 302.4, are prohibited unless a 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 2008, the State Water Board and the California Stormwater Quality Association (CASQA) led a group of stakeholders in developing and establishing the Construction General Permit Training Team (CGPTT). Subsequently, the CGPTT developed the 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. In 2010, CASQA and the State Water Board entered into a Memorandum of Agreement to document their respective understandings, roles, and responsibilities for the implementation of the QSD/QSP training program. The Memorandum of Agreement notes that the CASQA QSD/QSP Training Program constitutes a State Water Board-approved training course pursuant to the Construction Stormwater General Permit. The Memorandum of Agreement also documents that CASQA will continue to lead the QSD/QSP training program, with guidance from the CGPTT.
23. Per the Memorandum of Agreement, CASQA is responsible for qualifying and overseeing Trainers of Record who deliver the official QSD/QSP training program curricula in a manner consistent with the standards established by the CGPTT.
24. All California professional engineering, land surveying, and geology work is licensed by the Board for Professional Engineers, Land Surveyors, and Geologists.<sup>1</sup> Pursuant to the Professional Engineers Act (Bus. and Prof. Code § 6700, et seq.), all engineering work is required to be performed by a California licensed professional engineer. Pursuant to the Profession Land Surveyor's Act (Bus. and Prof. Code §§ 8700 – 8805), all land surveying work is required to be performed by a California licensed profession land surveyor. Pursuant to the Professional Geologist and Geophysicist's Act (Bus. and Prof. Code §§ 7800 –

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<sup>1</sup> [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 July 2022]



7887), all geological work is required to be performed by a California licensed professional 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 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 to levels that comply with 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 Panel also concluded that numeric action levels are likely to be more commonly feasible. The previous permit (Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ) includes numeric action levels for pH and turbidity, and specific numeric effluent limitations for active treatment system discharges. The Panel was not asked to address requirements specific to the implementation of Total Maximum Daily Loads (TMDL) with assigned waste load allocations for construction stormwater sources.
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 and authorized non-stormwater discharges. Upon exceedance of a numeric action level, the discharger must take necessary corrective actions, including but not limited to maintenance, replacement, and/or installation of new best management practices. This General Permit relies on dischargers to implement an iterative process for best management practice to protect water quality. Failure to implement corrective actions in response to a numeric action level exceedance is a violation of this General Permit.
29. This General Permit requires compliance with receiving water limitations based on water quality standards established in regional or statewide water quality control plans. One of the receiving water limitations requires that construction

stormwater discharges and authorized non-stormwater discharges not cause or contribute to an exceedance of applicable water quality standards. Water quality standards apply to the quality of the receiving water, not the quality of the construction stormwater discharge. Therefore, compliance with the receiving water limitations generally cannot be determined solely by the effluent water quality characteristics. If any discharger's stormwater discharge causes or contributes to an exceedance of water quality standards, that discharger must implement additional BMPs or other control measures in order to attain compliance with the receiving water limitation. Compliance with water quality standards may, in some cases, require dischargers to implement controls that are more protective than controls implemented solely to comply with the technology-based requirements in this General Permit.

30. A Total Maximum Daily Load is the sum of the allowable loads of a single pollutant from all contributing point sources (waste load allocations) and non-point sources (load allocations), plus the contribution from background sources (40 Code of Federal Regulations § 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 § 130.7" (40 Code of Federal Regulations § 122.44 (d)(1)(vii)). In addition, Water Code § 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 that may be translated into General Permit requirements and TMDL-specific numeric action levels and numeric effluent limitations.
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 unless identified in a State Water Board-approved exception.
32. The California Ocean Plan authorizes the State Water Board to grant an exception to California 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.
33. On March 20, 2012, the State Water Board adopted Resolutions 2012-0012 and Resolution 2012-0031, which contain 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.
34. 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 California Ocean Plan granted to the specific discharger.

35. On August 19, 2014, the U.S. EPA adopted regulations requiring 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.
36. 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.
37. Passive treatment is the application of natural or synthetic chemicals and products to reduce turbidity in discharges through coagulation and flocculation. Passive treatment does not rely on computerized, enclosed systems with pumps, filters, and real-time controls. Passive treatment may include pumps where they are necessary to move water around the site. The discharge of chemicals used in passive treatment can potentially cause or contribute to acute and chronic toxicity to aquatic life in receiving waters, potentially resulting in an exceedance of narrative or numeric water quality objectives in regional or statewide water quality control plans.
38. 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 and is proven to protect watersheds and waterbodies from hydrologic-based adverse changes and pollution impacts associated with the post-construction landscape.
39. Linear underground and overhead projects are not subject to post-construction requirements due to the nature of their construction to return project sites to pre-construction conditions.

**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 the Attachments of this Order)<sup>2</sup>: State Water Board Order 2009-009-DWQ as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ (previous permit) is superseded as of the effective date of this General Permit except for enforcement purposes, the Annual Report required to be submitted by September 1, 2023, and as set forth in Section III.C.

## **II. SCOPE OF GENERAL PERMIT COVERAGE**

### **II.A. Traditional Construction Activities Subject to this General Permit**

This General Permit covers construction projects that include construction or land disturbance activities that result in a disturbance of one or more acres, or less than one acre but are part of a larger common plan of development or sale that totals one or more acres of land disturbance, such as the following:

1. Construction activity that includes, but is not limited to, clearing, grading, excavation, stockpiling, and demolition activities that expose or disturb soil.
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 oil and gas exploration, production, processing, or treatment operations or transmission facilities pursuant to 40 Code of Federal Regulations § 122.26(c)(1)(iii), which:
  - 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 §§ 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 § 110.6 at any time since November 16, 1987; or
  - c. Contributes to a violation of a water quality standard.

### **II.B. Traditional Construction Activities Not Subject to this General Permit**

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 line and grade, hydraulic capacity and/or purpose of

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2 The attachments are part of this General Permit; the attachments are not separate orders or documents that will be updated independently by the State Water Board.

- 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 erodible subgrade. The road surface and base are not part of the subgrade. As such, those portions of a project that remove the paved road surface and base down to the erodible 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. Owners of construction sites in this watershed must apply for the Lahontan Regional Water Board permit rather than the statewide Construction Stormwater General Permit. Construction sites within the Lahontan region must also comply with the Lahontan Region Project Guideline for Erosion Control (R6T-2016-0010).<sup>3</sup>
  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 Stormwater General Permit:
    - a. Landfill operations as described by Standard Industrial Classification (SIC) code 4953. Landfill operators typically enroll under the Construction Stormwater General Permit for initial construction and final closure of the landfill.
    - b. Concrete manufacturers of prefabricated products, ready-mix concrete, or slurries that are delivered to construction sites require enrollment in the Industrial Stormwater General Permit. 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,

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3 Lahontan Regional Water Quality Control Board, [Order 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](https://www.waterboards.ca.gov/lahontan/water_issues/programs/storm_water/docs/r6t_2016_0010_cgp_combined.pdf) [as of May 20, 2021]

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 Stormwater General Permit.

8. Construction activity that discharges to combined sewer systems.
9. Discharges of stormwater identified in Clean Water Act § 402(l)(2), 33 USC § 1342(l)(2) (stormwater runoff from oil, gas, and mining operations) unless the discharge meets the conditions of 40 Code of Federal Regulations § 122.26(c)(1)(iii) as described in this General Permit.
10. Discharges of dredged or fill material to waters of the state. Those portions of the construction project that are located outside of waters of the state or waters of the United States are subject to this General Permit if the non-water portions disturb one or more acres of land.

#### **II.C. Linear Underground and Overhead Projects Subject to this General Permit**

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; or
    - ii. Communications, including internet, telephone, telegraph, radio, or television messages.
  - c. Ancillary facilities and substructures such as new access roads, helicopter landing zones, laydown yards, staging areas, substations, valve stations, etc. that primarily function as support for linear underground and overhead project construction activities.<sup>4</sup>
2. Construction support activities 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

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<sup>4</sup> Regional Water Board staff may require, in writing, that the discharger obtain coverage through a traditional construction notice of intent when the construction of ancillary facilities more closely resembles traditional construction activities.

- 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, 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.

#### **II.D. Linear Underground and Overhead Projects Not Subject to this General Permit**

This General Permit does not apply to the following linear underground and overhead project construction activity:

1. 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 granting access to land. 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 lines<sup>5</sup> and facilities to comply with applicable codes, standards, and regulations regardless of if such projects result in increased capacity; and/or
  - 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 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.

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<sup>5</sup> Update existing lines includes replacing existing lines with new materials or pipes.

### **III. OBTAINING, REVISING, AND TERMINATING PERMIT COVERAGE**

#### **III.A. Obtaining Permit Coverage for Traditional Construction Projects**

- III.A.1. The Discharger shall obtain a Waste Discharge Identification (WDID) number prior to the commencement of construction activity by electronically certifying and submitting the following Permit Registration Documents through the State Water Board Stormwater Multiple Application and Report Tracking System (SMARTS)<sup>6</sup>:
- a. Notice of Intent, including Risk Level determination as described in Attachment D.1;
  - b. Site Drawings and Maps;
  - c. Stormwater Pollution Prevention Plan (SWPPP) (see Section IV.O, below);
  - d. Applicable plans, calculations, and other supporting documentation for compliance with existing permitted Phase I or Phase II municipal separate storm sewer system post-construction requirements or the post-construction standards of this General Permit;
  - e. Annual fee per the current 23 California Code of Regulations Chapter 9 fee schedule for NPDES stormwater permits; and
  - f. All applicable additional Permit Registration Document information as required in Attachment D.2 of this General Permit.
- III.A.2. An applicant is considered to have General Permit regulatory coverage and can commence construction activity upon receipt of a WDID number generated by SMARTS. Dischargers shall post their site-specific WDID number in a site location that is viewable to the public or readily available upon request if unable to post publicly.
- III.A.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 a brief description of the emergency construction activity to the applicable Regional Water Board 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.
- III.A.4. Failure to obtain General Permit coverage for stormwater and non-stormwater discharges covered by this General Permit to waters of the United States is a violation of the Clean Water Act and the California Water Code.

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<sup>6</sup> Dischargers are required to have a signed original Electronic Authorization Form on file with the State Water Board for each organization in SMARTS.



**III.B. Obtaining Permit Coverage for Linear Underground and Overhead Projects**

The discharger for a linear underground and overhead project shall designate a Legally Responsible Person for each of its WDIDs numbers. The discharger is responsible for enrollment under and compliance with this General Permit. The Legally Responsible Person, as defined in Attachment B of this General Permit, shall fulfill the electronic signature and certification requirements to obtain General Permit coverage (see Section VI.H, Electronic Signature and Certification Requirements.)

- III.B.1. A discharger for a linear underground and overhead project shall obtain General Permit coverage under one or more applications submitted through SMARTS, per the requirements in Attachment E of this General Permit.
- III.B.2. The Legally Responsible Person shall electronically certify and submit the following applicable Permit Registration Documents through SMARTS<sup>7</sup> and obtain a WDID number prior to the commencement of any construction activities.
  - a. Notice of Intent, including linear underground and overhead project type determination as described in Attachment E.1;
  - b. Site-specific Stormwater Pollution Prevention Plan (SWPPP), Drawings, and Maps (see Section IV.O, below);
  - c. Annual fee per the current 23 California Code of Regulations Chapter 9 fee schedule for NPDES stormwater permits; and
  - d. All applicable additional Permit Registration Document information as required in Attachment E.2 of this General Permit.
- III.B.3. Regulatory Coverage for linear underground and overhead project segments
  - III.B.3.a. The discharger may separate a contiguous linear underground and overhead project into separately regulated segments. Linear underground and overhead project segments may consist of different risk types.
  - III.B.3.b. The discharger shall include a clear description in the Permit Registration Documents regarding how each segment relates to the overall linear underground and overhead project by identifying one or more of the following descriptions:
    - i. The segments are managed by separate contractors;
    - ii. The segments are constructed during distinct project phases; or
    - iii. The segments are located in different topography, watersheds, or jurisdictional boundaries.

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<sup>7</sup> Dischargers are required to have a signed original Electronic Authorization Form on file with the State Water Board for each organization in SMARTS.

- III.B.3.c. Dischargers with corresponding linear underground and overhead project segments that cross Regional Water Board(s) boundaries (e.g., different segments of same project located within different Regional Water Board jurisdictions) must file separate Permit Registration Documents.
- III.B.4. Programmatic Permitting Regulatory Coverage for linear underground and overhead projects
  - III.B.4.a. A discharger may submit one Notice of Intent requesting regional programmatic General Permit coverage for multiple non-contiguous linear underground and overhead projects, if the projects:
    - i. Are located within one Regional Water Board jurisdiction;
    - ii. Are a group of projects of similar scopes with common construction activities; and
    - iii. Have the same Legally Responsible Person.
  - III.B.4.b. Effective December 17, 2022, a discharger deploying Executive Order N-73-20, per the requirements and due dates of the executive order, or amendments therein, may submit one Notice of Intent requesting statewide programmatic General Permit coverage for multiple non-contiguous linear underground and overhead broadband projects, where the installation of the utilities is outside of a construction project that is otherwise regulated under this General Permit.
    - III.B.4.b.i. A discharger deploying Executive Order N-73-20 may apply for a statewide programmatic permit for regulatory coverage under Order 2009-0009-DWQ (as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ), from December 17, 2022 until September 1, 2023, by submitting the information required by Attachment E.2.
  - III.B.4.c. Linear underground and overhead project dischargers with programmatic permitting coverage shall submit, prior to the commencement of any construction activities for each non-contiguous site, a:
    - i. Common SWPPP with the Notice of Intent covering all the activities common to the projects; and
    - ii. Linear Construction Activity Notification for each site describing site-specific information in accordance with Attachment E.2, Section II.A.2.
- III.B.5. An applicant is considered to have General Permit regulatory coverage and may commence construction activity upon receipt of a WDID number generated by SMARTS Dischargers shall post the project-specific WDID number in a site location that is visible to the public or readily available upon request if unable to post publicly.

### **III.C. Regulatory Coverage under the Previous Permit**

- III.C.1. Dischargers that obtain coverage under State Water Board Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ, (previous permit) prior to the effective date of this permit, may continue coverage under the previous permit until its regulated project(s) receive an approved Notice of Termination from the Regional Water Board, up to two years after the effective date of this General Permit. Two years after September 1, 2023, all existing Notices of Intent subject to the previous permit will be administratively terminated.
- III.C.1.a. A discharger continuing regulatory coverage under the previous permit cannot increase a project's disturbed acreage through the Change of Information process, on or after the effective date of this General Permit; the discharger must submit a Notice of Intent for coverage under this General Permit for the increase in disturbed acreage.
- III.C.2. 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.
- III.C.3. Dischargers that submit a Notice of Termination for previous permit termination up to two years after 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).
- III.C.4. Dischargers with coverage under the previous permit that need regulatory coverage after September 1, 2025 under this General Permit, shall submit, in SMARTS, the following items by August 31, 2025:
- a. A certification of the discharger's intent to obtain regulatory coverage under this General Permit;
  - b. A revised Notice of Intent and other Permit Registration Documents, revised to address new or changed requirements per this General Permit, as applicable; and
  - c. The applicable fee.

### **III.D. Small Construction Rainfall Erosivity Waiver**

- III.D.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.

- III.D.2. Dischargers with small sites that are part of a larger common plan of development, or dischargers that have programmatic permit coverage, do not qualify for a waiver unless the entire project qualifies for a waiver.
- III.D.3. To request a waiver, the Legally Responsible Person shall submit a waiver application through SMARTS, and pay the appropriate fee to the State Water Board. If approved by the State Water Board, SMARTS will electronically provide the discharger with the waiver and a unique waiver identification number. The waiver is effective on the date the waiver identification number is issued and valid between the construction start and end dates, as entered in the waiver application.
- III.D.4. A discharger qualifying for a waiver shall obtain a waiver identification number prior to starting any construction activities regulated by this General Permit.
- III.D.5. 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.
- III.D.6. 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.
- III.D.7. 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.
- III.D.8. The discharger shall post the unique waiver identification number in a site location that is visible to the public or readily available upon request if unable to post publicly.
- III.D.9. 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.
- III.D.10. Regional Water Board staff may terminate a waiver if the Regional Water Board staff 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.

### **III.E. Notice of Non-Applicability**

- III.E.1. A discharger claiming “No Discharge” through a Notice of Non-applicability (NONA) as set forth in Water Code § 13399.30 shall meet the following eligibility requirement:
  - a. The site’s physical location is not hydrologically connected to waters of the United States.
- III.E.2. When claiming the “No Discharge” option, the discharger shall submit and certify via SMARTS both the NONA and a No Discharge Technical Report. The No Discharge Technical Report shall identify the site by address or parcel number and demonstrate that the site meets the eligibility requirement described above in Section III.E.1.a.
- III.E.3. The No Discharge Technical Report shall be signed (wet signature and license number) by a California licensed professional engineer or geologist with hydrological expertise.
- III.E.4. The Regional Water Board may require the No Discharge Technical Report to be reassessed if it determines that there are errors in the No Discharge Technical Report or if the site is hydrologically connected to waters of the United States.

### **III.F. Revising Permit Coverage Information**

The discharger shall revise permit coverage information, as appropriate, to:

- III.F.1. Update Construction Start and End Dates
  - III.F.1.a. The discharger shall electronically certify and submit a revised Notice of Intent through a Change of Information in SMARTS, when the construction start or end date changes, recalculating sediment risk and revising the SWPPP as appropriate. The Change of Information shall be submitted at least 14 days prior to the date that was modified, unless infeasible due to unforeseen circumstances.
  - III.F.1.b. If the discharger is revising the construction start date to a later date than previously submitted, the Change of Information shall contain time-stamped photo documentation depicting that construction activities have not commenced for the entirety of the site.
- III.F.2. Reduce Acreage
  - III.F.2.a. When a portion of the site meets conditions for termination of coverage (Section III.H) or is sold/transferred to a new owner, the discharger may reduce the disturbed acreage covered under the General Permit. The discharger reducing disturbed acreage shall electronically certify and submit the following Permit Registration Document revisions in SMARTS, through a Change of Information, within 30 days of the reduction in acreage:
    - i. A revised Notice of Intent indicating the new site size;

- ii. Photos demonstrating final stabilization, if applicable;
  - iii. 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 III.H below; and
  - iv. A revised SWPPP to match the change in acreage.
- III.F.2.b. For a larger common plan of development for residential use, the discharger may, through the Change of Information process, remove residential lots from permit coverage once the lot meets the following criteria:
- i. The residential lot has been sold to the individual homeowner(s) for residential use;
  - ii. A certificate of occupancy or equivalent document, is maintained on-site and can be made available during inspections;
  - iii. The lot is less than one acre of disturbance;
  - iv. All construction activity conducted on the lot by the discharger is complete; and
  - v. The discharger has temporarily stabilized any unfinished yard and landscaping areas with BMPs.
- III.F.2.c. The discharger shall upload, as an attachment in SMARTS, documentation of a contract (e.g., Covenants, Conditions, and Restrictions) requiring the individual homeowner to stabilize the yard and landscaping within one year and to maintain the temporary BMPs until the yard and landscaping are stabilized.
- III.F.2.d. The discharger shall maintain General Permit coverage for any site, parcel, or individual lot that has not received Change of Information or Notice of Termination approval from the Regional Water Board or obtained coverage under the new owner's Notice of Intent.
- III.F.3. Termination of Programmatic Permit Coverage for Linear Underground and Overhead Projects
- III.F.3.a. Upon completion of construction activities for a specific site with linear underground and overhead project programmatic permit coverage, the discharger shall submit a Linear Construction Termination Notification for each completed linear segment.
  - III.F.3.b. The site must meet the termination conditions in Section III.H.3 below.
  - III.F.3.c. The Linear Construction Termination Notification must include photos demonstrating final stabilization.
  - III.F.3.d. Regional Water Board approval of the Linear Construction Termination Notification terminates coverage for the specific site.

III.F.4. Increase Acreage

III.F.4.a. If the disturbed acreage of the site will increase, the discharger shall certify and submit the following Permit Registration Documents revisions in SMARTS, through a Change of Information, prior to the increase in disturbed acreage:

- i. A revised Notice of Intent indicating the new site size;
- ii. A 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 terminating coverage in Section III.H below; and
- iii. A revised SWPPP to match current site size.

III.F.4.b. 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 by the State Water Board within 14 calendar days of the notification date.

III.F.4.c. Regulatory coverage under this General Permit for the added acreage is not approved until the Regional Water Board approves the Change of Information.

III.F.4.d. If the increased acreage is greater than one-fourth mile from the existing site boundary and is an acre or larger, the discharger is required to submit a separate Notice of Intent.

III.F.5. Change in Ownership

III.F.5.a. Prior to a sale/transfer of a site, parcel, or individual lot (change of ownership), the existing discharger shall submit a Notice of Termination for change of ownership and a certification that the new owner has been notified of applicable requirements to obtain new General Permit for the qualifying activities. 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.<sup>8</sup>

III.F.5.b. General Permit coverage is not transferable to a new owner. The new discharger will need to submit their own Permit Registration Documents to obtain a new WDID number prior to continuing construction activities and/or installing final landscaping (including meeting conditions for termination of coverage). The new discharger shall enter the original project start date (initial date of disturbance) from the previous discharger(s).

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<sup>8</sup> Dischargers that are submitting a Notice of Termination for a change of ownership, where the new owner will obtain permit coverage to complete construction, are not required to comply with the requirements in Order Section III.H.

### **III.G. Inactive Projects**

- III.G.1. Dischargers with projects where all construction activities (including passive treatment, active treatment systems, and/or active equipment) will be suspended for 30 days or more may submit a Change of Information through SMARTS to revise the SWPPP. The Change of Information shall include:
- a. Revised site map depicting the current status of construction; and
  - b. Photographs showing the temporary stabilization BMPs that were implemented.
- III.G.2. Upon Regional Water Board approval of the Change of Information, sampling may be suspended, and monitoring and inspections may be reduced as follows:
- III.G.2.a. A QSD shall visit the inactive project within 14 days of Regional Water Board approval of the Change of Information to verify that the SWPPP is being implemented accordingly. If necessary, the QSD shall amend the SWPPP to address all new conditions not previously considered through a Change of Information in SMARTS.
- III.G.2.b. A QSP or trained delegate shall visually inspect the inactive project at least once every calendar month and prior to any weather pattern that is forecasted to have a 50 percent or greater chance of 0.5 inches or more in a 24-hour period. Please refer to Attachments D and E Section III.C for information pertaining to visual inspection requirements.
- i. The QSP or trained delegate shall verify BMPs are functioning in accordance with the SWPPP and implement corrective actions where necessary.
- III.G.2.c. The above inspections are not required during dangerous weather conditions or when access to the site is infeasible (e.g., due to snow accumulation) or unsafe.
- III.G.3. Dischargers wishing to resume construction activities or the use of passive treatment, active treatment systems, and/or active equipment shall submit a Change of Information through SMARTS requesting to resume the project along with a revised site map based on current site conditions. Upon Regional Water Board approval of the Change of Information, the discharger is required to comply with all applicable requirements of this General Permit to resume construction activities at the site.

### **III.H. Terminating Permit Coverage**

- III.H.1. To terminate General Permit coverage, the discharger shall electronically certify and submit the required documentation (Section III.H.2 below) to demonstrate compliance with all General Permit coverage termination requirements, including applicable post-construction BMPs and/or low impact development features.



- III.H.2. The discharger shall electronically certify and submit the following through SMARTS to be considered for General Permit coverage termination:
- a. A complete Notice of Termination;
  - b. QSP-prepared final Notice of Termination inspection with the QSP name and valid QSP certificate number;
  - c. A final site map; and
  - d. Photos demonstrating final stabilization and the implementation of applicable post-construction BMPs and/or low impact development.
- III.H.3. The discharger shall certify and submit a final site map, as part of the Notice of Termination documents through SMARTS. The Notice of Termination final site map shall, at minimum, include the following:
- a. Project boundaries and adjacent lands with labeled key features, such as roadways and waterbodies;
  - b. Developed drainage basin boundaries and discharge location points;
  - c. Site entrances and exits, lot boundaries, roads, structures, and features related to the project that may be used as a reference;
  - d. Specific permanent erosion control BMPs, post-construction BMPs, and low impact development features;
  - e. Individual erosion control BMPs (including final landscaping) identified using hatch patterns, symbols, or shading unique to each BMP;
  - f. Location and orientation of all photos used to document final site conditions and demonstrate compliance with post-construction requirements of this General Permit; and
  - g. If applicable, areas of the site being transferred to new ownership, and the name and contact information of the owner.
- III.H.4. The Regional Water Board will consider a site, parcel, or individual lot complete only when all portions of the site comply with all the following conditions:
- a. The discharger has completed all construction activity;
  - b. There is no greater potential for construction-related stormwater pollutants to be discharged into site runoff than prior to the construction activity;
  - c. Construction-related equipment and temporary BMPs have been removed from the site, except as set forth in Section III.F.2.b above;
  - d. Construction materials and wastes have been disposed of properly;
  - e. Soils disturbed by construction activities have been permanently stabilized (final stabilization), except as set forth in Section III.F.2.b above, using materials that:

- i. Have a product life that support the full and continued stabilization of the site;
  - ii. Achieve stabilization without becoming trash or debris; and
  - iii. Minimize the risk of wildlife entrapment;
- f. The discharger has ensured the QSP completed on-site visual inspections and verified the site complies with all Notice of Termination requirements, including installation of post-construction stormwater runoff BMPs and/or low impact development features;
- g. The Legally Responsible Person has submitted the information in the Notice of Termination and has certified and submitted through SMARTS; and
- h. The discharger has demonstrated that the site complies with all Notice of Termination conditions above (Section III.H) and all final stabilization conditions by one of the following methods:

i. **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 vegetative coverage (e.g., deserts), 70 percent of natural conditions of local undisturbed areas is acceptable. Photos of all site areas are required to verify compliance with the 70 percent final cover requirement;

OR

ii. **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

iii. **Custom method.** The discharger may request approval from the Regional Water Board to use a method or analytical model other than Section III.H.4.h.i and 4.h.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.

III.H.5. The Notice of Termination photo documentation for General Permit compliance verification shall include photos of the site’s final site conditions; post-construction BMPs and/or low impact development features; a description of the corresponding location, and orientation of photos as indicated on the final site map.

- III.H.6. The Notice of Termination shall include a long-term maintenance plan<sup>9</sup> for the post-construction stormwater runoff BMPs and/or low impact development features being implemented.
- III.H.7. The Notice of Termination will be automatically approved 30 calendar days after the date of Notice of Termination is submitted, 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.
- III.H.8. 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.

#### **IV. PERMIT REQUIREMENTS**

##### **IV.A. Authorized Non-Stormwater Discharges**

- IV.A.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 IV.A.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. Uncontaminated groundwater or spring water from construction dewatering activities in compliance with Attachment J; and
  - h. Water to control dust.
- IV.A.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;

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<sup>9</sup> 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), schedule, and procedures needed to ensure that post-construction features are adequately maintained and functional.

- 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 or statewide water quality control plan;
- e. The discharge is in accordance with other applicable State and Regional Water Board permits; and
- f. The discharge does not contain toxic constituents in toxic amounts and does not cause toxicity in the receiving water body.

#### **IV.B. Discharge Prohibitions**

- IV.B.1. Dischargers shall not violate any discharge prohibitions contained in applicable water quality control plans.
- IV.B.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.
- IV.B.3. All discharges are prohibited except for the stormwater and non-stormwater discharges specifically authorized by this General Permit or another NPDES permit. The discharger shall notify the Regional Water Board of existing or anticipated non-stormwater discharges not authorized by this General Permit, within 24 hours of the discharge, to determine if regulatory coverage is necessary through a separate NPDES permit.
- IV.B.4. All of the following discharges are prohibited:
  - a. Debris and trash, in accordance with State Water Board Resolution 2015-0019, the Trash Provisions of the Water Quality Control Plan for Ocean Waters of California and the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California, as applicable to construction stormwater discharges.
    - i. To comply with the Trash Provisions, dischargers shall implement, operate, and maintain trash management, treatment, and institutional controls to eliminate debris and trash from all stormwater discharges and authorized non-stormwater dischargers consistent with the prohibition of the discharge of debris and trash regulated by this General Permit. If the discharger is unable to comply with the prohibition of the discharge of debris and trash, the discharger must submit, for Regional Water Board Executive Office or designee approval, an amended Stormwater Pollution Prevention Plan addressing:
      - 1. A demonstration that the discharger is unable to comply with this outright prohibition of the discharge of debris and trash; and

2. A demonstration that the discharger's chosen combination of trash management, treatment, and institutional controls achieves full capture system equivalency.
- b. Treatment chemicals except as authorized in Attachment F and G;
- 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 (e.g., used in vehicle equipment washing or external building wash down); and
- g. Toxic or hazardous substances (e.g., asbestos, lead, mercury, or PCBs).

#### **IV.C. Effluent Limitations and Action Levels**

##### **IV.C.1. Narrative Effluent Limitations**

- IV.C.1.a. Stormwater 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 §§ 117.3 and 302.4, unless a separate NPDES Permit has been issued to regulate those discharges.
- IV.C.1.b. Dischargers shall minimize or prevent pollutants in stormwater 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.

##### **IV.C.2. Numeric Effluent Limitations<sup>10</sup>**

- IV.C.2.a. All dischargers implementing active treatment systems are subject to the numeric effluent limitations required in Attachment F.
- IV.C.2.b. All dischargers that are Responsible Dischargers for a TMDL with a waste load allocation that was translated into a TMDL-related numeric effluent limitation, are subject to the numeric effluent limitations as indicated by Table H-2 in Attachment H.

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<sup>10</sup> Refer to Attachment B of this General Permit for the definitions of numeric effluent limitations and numeric effluent limitation exceedances.

IV.C.3. Numeric Action Levels<sup>11</sup>

- IV.C.3.a. All dischargers that are Responsible Dischargers for a TMDL with a waste load allocation that was translated into a TMDL-related numeric action level, are subject to the numeric action level as indicated by Table H-2 in Attachment H.
- IV.C.3.b. Dischargers with dewatering activities not subject to a separate NPDES permit are subject to the numeric action levels required in Attachment J.
- IV.C.3.c. For Risk Level 2 and 3 sites, refer to Attachment D, Section III.G. For Type 2 and 3 linear underground and overhead projects, refer to Attachment E, Section III.G. For stormwater and authorized non-stormwater discharges, the numeric action level for pH is provided as a range where the lower value is 6.5 pH standard units and the upper value is 8.5 pH standard units. The discharger shall report the field reading to two decimal places. A numeric action level exceedance for pH occurs when the reading, obtained per each discharge location per day of each qualifying precipitation event, is below the lower value or above the upper value, as shown in Table 1 of this Section.
- IV.C.3.d. Risk Level 2 and 3 sites, refer to Attachment D, Section III.G. For Type 2 and 3 linear underground and overhead projects, refer to Attachment E, Section III.G. For stormwater and authorized non-stormwater discharges the numeric action level for turbidity is 250 Nephelometric Turbidity Units (NTU). An exceedance of the turbidity numeric action level occurs when the field reading, obtained per each discharge location per day of each qualifying event, is over 250 NTU, as shown in Table 1 of this Section.

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<sup>11</sup> Refer to Attachment B of this General permit for the definitions of numeric action levels and numeric action level exceedances.

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

Parameter	Test Method	Discharger Type	Method Detection Limit	Units	Numeric Action Level
TMDL-Related Pollutant	U.S. EPA-approved test method for specific pollutant parameter	Responsible Dischargers	Depends on the test method	mg/L	Refer to Table H-2 in Attachment H
pH	Field test with calibrated portable instrument using EPA approved procedures	Risk Level 2 and 3 Risk Type 2 and 3	0.2	pH Units	Lower Value= 6.5 Upper Value= 8.5
Turbidity	EPA 0180.1 and/or field test with calibrated portable instrument	Risk Level 2 and 3 Risk Type 2 and 3	1	NTU	250

**IV.D. Receiving Water Limitations**

- IV.D.1. The discharger shall ensure that stormwater discharges and authorized non-stormwater discharges to any surface or ground water will not adversely affect human health or the environment.
- IV.D.2. The discharger shall ensure that stormwater discharges and authorized non-stormwater discharges will not contain pollutants in quantities that threaten to cause pollution or a public nuisance.
- IV.D.3. The discharger shall ensure that stormwater 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 an applicable water quality control plan.
- IV.D.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.

**IV.E. Linear Underground and Overhead Project Requirements**

Dischargers with linear underground and/or overhead projects shall comply with the requirements included in Attachments E, E.1, and E.2 of this General Permit.

**IV.F. Risk Level 1 Requirements**

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

**IV.G. Risk Level 2 Requirements**

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

**IV.H. Risk Level 3 Requirements**

Risk Level 3 dischargers shall comply with the requirements included in Attachment D, D.1, and D.2 of this General Permit.

**IV.I. Active Treatment System Requirements**

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

**IV.J. Passive Treatment Requirements**

Dischargers implementing passive treatment on-site shall comply with all the requirements in Attachment G of this General Permit.

**IV.K. Total Maximum Daily Load Implementation Requirements**

IV.K.1. Responsible Dischargers are dischargers who:

- a. Discharge stormwater and authorized non-stormwater directly, or through a municipal separate sewer system or other conveyance, to impaired water bodies or watersheds identified in a U.S. EPA approved total maximum daily load (TMDL) with a waste load allocation assigned to construction stormwater sources; and
- b. Have one or more TMDL-specific pollutant sources present on-site with the potential to enter construction stormwater discharge, which are required to be identified in the pollutant source assessment (refer to Section IV.O.2.i below).

IV.K.2. Responsible Dischargers shall comply with the applicable requirements in Attachment H of this General Permit.



#### **IV.L. Discharges Subject to the California Ocean Plan**

##### **IV.L.1. Discharges to Ocean Waters**

- IV.L.1.a. 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.
- IV.L.1.b. 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 § 13383.

##### **IV.L.2. Discharges Granted an Exception for Areas of Special Biological Significance (ASBS)**

- IV.L.2.a. Dischargers who were granted an exception to the California Ocean Plan prohibition of discharges of waste directly to an ASBS pursuant to Resolution 2012-0012 amended by Resolution 2012-0031 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 September 1, 2013, shall comply with the conditions and requirements set forth in the granted exception.

#### **IV.M. Dewatering Requirements**

- IV.M.1. Dischargers with dewatering activities subject to a separate NPDES permit (e.g., de minimis and low threat discharges) are not subject to comply with the dewatering requirements of this General Permit as found in Attachment J and shall obtain coverage as required by the State or Regional Water Boards.
- IV.M.2. Dischargers with dewatering activities not subject to a separate NPDES permit (e.g., de minimis and low threat discharges) shall comply with the dewatering requirements in Attachment J.

#### **IV.N. Post-Construction Requirements**

- IV.N.1. All dischargers, other than linear underground and overhead project dischargers, shall implement BMPs to reduce runoff and pollutants in stormwater discharges that are reasonably foreseeable after all construction phases have been completed at the site (post-construction BMPs).

- IV.N.2. Dischargers subject to the post-construction requirements of an existing NPDES Phase I or Phase II municipal separate storm sewer system permit are not subject to the post-construction requirements in Section IV.N.3 below, and shall submit the following items with their Permit Registration Documents through SMARTS:
- a. An attachment or web-source containing the applicable NPDES Phase I or Phase II municipal separate storm sewer system permittee's post-construction requirements; and
  - b. The post-construction plans and calculations submitted to, or approved by, the applicable NPDES Phase I or Phase II municipal separate storm sewer system permittee. If the discharger submitted preliminary post-construction plans and calculations as a Permit Registration Document, the discharger shall submit the approved plans and calculations within 14 days of approval by the municipal stormwater permittee, through a Change of Information in SMARTS. The discharger shall submit a Change of Information in SMARTS for any revisions to post-construction plans and calculations prior to submitting the Notice of Termination.
- IV.N.3. All dischargers, other than linear underground and overhead project dischargers or dischargers subject to the post-construction requirements of an existing NPDES Phase I or Phase II municipal separate storm sewer system permit, shall comply with the following post-construction runoff reduction requirements. The discharger shall comply with this General Permit's post-construction requirements if the Permit Registration Documents were submitted prior to the effective date of applicable post-construction requirements of the corresponding NPDES Phase I or Phase II municipal stormwater permit.
- IV.N.4. The discharger shall use non-structural and/or structural measures to replicate the pre-construction 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 85<sup>th</sup> percentile, 24-hour precipitation event (or the smallest precipitation event that generates runoff, whichever is larger).
- IV.N.5. 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 stream<sup>12</sup> or larger stream and ensure that post-project runoff time of concentration is equal to or greater than pre-project time of concentration.
- IV.N.6. The discharger shall certify and submit post-construction plans, calculations, and other supporting documentation as a Permit Registration Document in SMARTS. The discharger shall submit a Change of Information in SMARTS for

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

any revisions to post-construction plans and calculations prior to submitting the Notice of Termination.

- IV.N.7. Regional Water Board staff may review post-construction plans, calculations, and other supporting documentation to verify that the post-construction water balance is accurate; and may request that the discharger make revisions if necessary.
- IV.N.8. The discharger may use the contact information found online or in Attachment C to request Regional Water Board staff review post-construction plans, calculations, and other supporting documentation prior to and during construction.

#### **IV.O. Stormwater Pollution Prevention Plan Requirements**

- IV.O.1. The discharger shall ensure the site's SWPPP complies with the below conditions:
  - a. A site-specific SWPPP is developed, and amended as necessary, by a QSD. The discharger is responsible for keeping the SWPPP and associated documents updated in SMARTS to reflect current site conditions and construction activities.
  - b. Trained personnel and BMP materials are available at the site as required by this General Permit.
  - c. The SWPPP includes the implementation of BMPs that comply with BAT, BCT, and ensure compliance with 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.
  - d. The SWPPP is available at the site and made available upon request by a federal, State, or municipal inspector. 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 are legible and available in hard copy at the site.
- IV.O.2. The SWPPP shall include:
  - a. Identification of all pollutants, their sources, and control mechanisms, including sources of sediment associated with all construction activities (e.g., sediment, paint, cement, stucco, cleaners, site erosion);

- b. Pollutant source assessments, including a list of potential pollutant sources and identification of site areas where additional BMPs are necessary to reduce or prevent pollutants in stormwater and authorized non-stormwater discharges, per the following minimum requirements when developing the pollutant source assessment:
  - i. Consider all potential sources of pollutants, including non-visible pollutants which are known, or should be known to occur on-site including those that:
    - 1. Are used in construction activities;
    - 2. Are stored on-site;
    - 3. Were spilled or released during construction activities or past land use activities and not cleaned up; and
    - 4. Were applied to land as part of past land use activities.
  - ii. Consider all potential sources of pollutants associated with applicable TMDLs listed in Attachment H, and state whether or not sources of those pollutants are present on-site;
  - iii. Consider the quantity, physical characteristics (e.g., liquid, powder, solid), and locations of each potential pollutant exposed, source handled, produced, stored, recycled, or disposed of on-site;
  - iv. Consider the degree to which pollutants associated with those materials may be exposed to and mobilized by contact with stormwater; and
  - v. Consider the direct and indirect pathways that pollutants may be exposed to stormwater or authorized non-stormwater discharges. This shall include an assessment of past spills or leaks, non-stormwater discharges, and discharges from adjoining areas.
- c. Description of site-specific BMPs implemented to reduce or eliminate stormwater pollution, including the following, if applicable:
  - i. Minimum sediment and erosion control BMPs as outlined in Attachments D and E of this General Permit;
  - ii. Active treatment systems as included in an Active Treatment System Plan (as required in Section E.1 of Attachment F);
  - iii. Passive treatment technologies as included in a Passive Treatment Plan (as required in Section D.2 of Attachment G);
  - iv. BMPs implemented to address applicable TMDL implementation requirements (as required by Attachment H); and
  - v. Dewatering systems (as required by Attachment J).

- d. Site-specific BMPs initialized immediately to temporarily stabilize an area disturbed by construction where construction activities will not be resumed within 14 days;
- e. Identification, elimination, control, or treatment information for all non-stormwater discharges from the site not regulated by this or another NPDES permit;
- f. Description of efforts and BMPs used to minimize and control pollutants discharged from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be captured and properly disposed of and/or treated to mitigate impacts to water quality;
- g. Description of efforts and BMPs used 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;
- h. Description of spill and leak prevention and response plan including:
  - i. Procedures that effectively address hazardous and non-hazardous spills in accordance with law;
  - ii. Spill and leak response equipment and materials to be available on-site, cleaned up immediately, and disposed of properly; and
  - iii. Personnel are assigned and trained for spill and leak prevention and response.
- i. Construction Site Monitoring Program that describes methods and procedures for monitoring discharges in accordance with the applicable Attachment D or E that includes the following:
  - i. Visual inspection locations, inspection procedures, and follow-up tracking procedures.
  - ii. Applicable sampling locations, collection, and handling procedures shall include detailed procedures for field analysis, sample collection, storage, preservation, and shipping to the laboratory to ensure consistent quality assurance and control is maintained.
  - iii. A copy of the Chain of Custody form used when handling and shipping samples.
  - iv. Identification of the analytical methods and related method detection limits (if applicable) for each parameter.
  - v. Watershed Monitoring Option:
    - 1. If the discharger is part of a qualified regional watershed-based monitoring program approved by the Regional Water Board Executive Officer or their delegate, the discharger may be eligible for relief from the monitoring requirements in the applicable

Attachment D or E. The Regional Water Board may approve proposals to substitute a qualified watershed-based monitoring program if it determines the program will provide information to determine each discharger's compliance with the requirements of this General Permit.

- j. Title Sheet(s) with:
  - i. Project name;
  - ii. Project location (vicinity map);
  - iii. Preliminary schedule of activities;
  - iv. Site operating hours (hours when construction activities are occurring);
  - v. Index of attachments;
  - vi. Contact information for QSD(s), QSP(s), and trained delegates (name, phone numbers, license or certification number); and
  - vii. Signature of the QSD(s) who prepared the SWPPP.
- k. Pre-Earthwork Drawing with:
  - i. Site and project boundaries;
  - ii. Areas disturbed during geotechnical or other preconstruction investigation work;
  - iii. Existing roads and trails;
  - iv. Drainage areas;
  - v. Discharge locations;
  - vi. Existing storm drain system if applicable; and
  - vii. Proposed 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, and areas of other construction support activities.
- l. Construction and Earthwork Drawing(s) with:
  - i. Site layout (grading plans) including roads;
  - ii. Site and project boundaries;
  - iii. Drainage areas;
  - iv. Discharge locations;
  - v. Sampling locations;
  - vi. Areas of soil disturbance (temporary or permanent);
  - vii. Proposed active areas of soil disturbance (cut or fill);

- vii. Proposed locations of erosion control BMPs;
- ix. Proposed locations of sediment control BMPs;
- x. Proposed locations of run-off BMPs;
- xi. Temporary and/or permanent run-on conveyance (if applicable);
- xii. Proposed locations of active treatment systems(s) (if applicable);
- xiii. 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, and areas of other construction support activities; and
- xiv. Site-specific procedures to implement final stabilization BMPs as soon as reasonably practicable.

#### **IV.P. Annual Reporting Requirements**

- IV.P.1. The discharger shall electronically certify and submit an Annual Report through SMARTS by September 1st for the previous reporting period from July 1st through June 30th if a WDID number is active for at least 90 days within the reporting period.
- IV.P.2. 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.
- IV.P.3. The Annual Report shall consist of the following:
  - a. The summary of all stormwater sampling and monitoring reports and supporting documents (e.g., laboratory reports);
  - b. The summary of all corrective actions taken during the compliance year;
  - c. The identification and explanation of any compliance activities (e.g., missed sampling or visual inspections) or corrective actions that were not implemented;
  - d. The summary of all the General Permit violations;
  - e. The names of individual(s) who performed the site inspections, sampling, visual inspections, and/or measurements;
  - f. The date, place, time of site inspections, sampling, visual inspections, and/or measurements, including the amount of precipitation measured in inches; and
  - g. All visual inspection and sample collection exception records and reports.

## **V. SITE ROLES AND PERSONNEL**

### **V.A. Discharger Responsibilities**

- V.A.1. The discharger, as defined in Attachment B, is responsible for all site activity affiliated with General Permit compliance and non-compliance including work done by QSDs, QSPs, and QSP delegates.
- V.A.2. The discharger shall ensure that the SWPPP and any required amendments are developed by a QSD. SWPPP changes or amendments shall be uploaded through SMARTS within 30 calendar days.
- V.A.3. The discharger 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 discharger 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.
- V.A.4. The discharger shall ensure that the correct construction start and end date are:
  - a. Used for each regulated construction project's risk determination;
  - b. Listed in SMARTS; and
  - c. Included on the unique WDID number notification form in a site location viewable by the public or readily available upon request if unable to post publicly.
- V.A.5. The discharger shall ensure project data and contact information is current in SMARTS.
- V.A.6. If a Legally Responsible Person changes, the discharger shall update the contact information for the Legally Responsible Person in SMARTS.

### **V.B. Legally Responsible Person**

- V.B.1. When the discharger is required to sign, certify, and electronically submit any documents required by the General Permit, the State or Regional Water Board, or U.S. EPA, the signatory for the discharger is the Legally Responsible Person and must meet the definition of "Legally Responsible Person" set forth in Attachment B.
- V.B.2. The Legally Responsible Person may designate a Duly Authorized Representative, as defined in Attachment B, who may sign, certify, and electronically submit any documents, reports, or information required by this General Permit, the State or Regional Water Boards, or U.S. EPA. The Legally Responsible Person shall update the designation in SMARTS if there are any changes to the Duly Authorized Representative.
- V.B.3. The Legally Responsible Person and, if applicable, Duly Authorized Representative shall comply with the electronic signature and certification



requirements set forth in Section VI.H when submitting information required by the General Permit.

**V.C. Discharger’s Responsibilities for Qualified SWPPP Developer Performance**

- V.C.1. The discharger shall retain a QSD from the beginning of the project through the Notice of Termination approval.
- V.C.2. A 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 inspections, sampling data, comments from a QSP, or their own site observations.
- V.C.3. A QSD is required to include in the SWPPP the name, email, and phone number of all the QSP-trained delegate(s).
- V.C.4. The discharger shall ensure that a QSD performs the following on-site visual inspections<sup>13</sup>:
  - a. Within 30 days of construction activities commencing on a site;
  - b. Within 30 days of a discharger replacing the QSD;
  - c. Twice annually, once August through October and once January through March;
  - d. Within 14 calendar days after a numeric action level exceedance; and
  - e. Within the time period requested in writing from Water Board staff.
- V.C.5. A QSD may perform the work of a QSP.

**V.D. Discharger’s Responsibilities for Qualified SWPPP Practitioner Performance**

- V.D.1. The discharger shall ensure that a QSP reviews work performed by trained delegates including visual inspections, sampling, BMP implementation activities, and other required tasks listed in the SWPPP.
- V.D.2. The discharger shall ensure that a QSP performs the following on-site visual inspections<sup>14</sup>:
  - a. Once every calendar month;

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13 These on-site visual inspection requirements are the minimum required and may be increased by the discharger or a QSD during times of high-risk construction activities, excessive site problems, or other conditions that warrant increased oversight by a QSD.

14 These on-site visual inspection requirements are the minimum requirements and may be increased by the discharger or a QSD during times of high-risk construction

- b. Within 72 hours prior to a forecasted Qualifying Precipitation Event to inspect areas of concern to verify the status of any deficiencies, BMPs, or other identified issues at the site. If extended forecast precipitation data (greater than 72 hours) is available from the National Weather Service, the pre-precipitation event inspection may be done up to 120 hours in advance;
- c. Within 14 days after a numeric action level exceedance the QSP shall visually inspect the drainage area of exceedance and document any areas of concern; and
- d. Prior to the submittal of General Permit Notice of Termination or Change of Information (for acreage changes) of all or part of a site.

V.D.3. The discharger shall ensure that a 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 number notification form is in a site location viewable by the public or readily available upon request, 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 SWPPP by on-site trained personnel delegated by a QSP (including, but not limited to, taking representative samples of the runoff);
- e. Contact information including, name, phone number, and email address for the discharger, Legally Responsible Person, QSD(s), and QSP(s) is correct and updated in SMARTS within 90 days of a change); and
- f. Photo documentation of problem areas of erosion, new sediment deposition, unauthorized non-stormwater discharges, and/or failed BMPs is included in the SWPPP and are made available upon a regulatory inspector's request.

#### **V.E. Discharger Responsibilities for Delegates' Performance**

V.E.1. The discharger may authorize a QSP to delegate visual inspections, sampling, and/or SWPPP and BMP implementation activities to others (delegates) (e.g., superintendent, project manager, foreman, contractor, coworker) that have received training for their respective tasks. A QSP opting to delegate tasks to

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activities, excessive site problems, or other conditions that warrant increased oversight of the site.

others shall provide the following training based on the guidelines set by the Construction General Permit Training Team:

- a. Foundational training for all delegates regarding stormwater compliance roles and responsibilities, forecast information, and documentation and reporting procedures; and
- b. Site-specific training regarding visual inspections, sampling procedures, and/or SWPPP and BMP implementation activities relevant to the delegate's assigned responsibilities.

V.E.2. The discharger shall ensure the following for QSP-delegate(s):

- a. A QSP has determined the delegate(s) can perform and have a competent understanding of the visual inspection, sampling, and/or SWPPP and BMP implementation tasks prior to fully delegating the responsibility to the individual;
- b. The current delegate(s), including name, email, and phone number, are maintained in a training log, uploaded as an attachment to the SWPPP in SMARTS, prior to the delegate performing the delegated function; and
- c. The delegate(s) have a system used to record and report issues back to the QSP within 24 hours of when a corrective action is needed.

V.E.3. The delegate cannot perform the QSD and QSP inspections required in Section V.C.4 or Section V.D.2, respectively.

**V.F. Becoming a Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP)**

V.F.1. All QSDs and QSPs shall have fundamental knowledge of erosion and sedimentation processes, best management practices, and their implementation to control pollutants in stormwater discharges.

V.F.2. California licensed professional engineers or geologists may self-certify their eligibility to serve as a QSD/QSP via the State Water Board Construction Stormwater Program website.

V.F.2.a. Consistent with Title 16, California Code of Regulations, § 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.

V.F.2.b. 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.

- V.F.3. A person can obtain a QSD or QSP certification through the CASQA by completing the following steps:
- Step 1: Complete a required prerequisite to take the QSD or QSP training course;
  - Step 2: Complete the QSD or QSP training course;
  - Step 3: Pass the QSD or QSP exam; and
  - Step 4: Register as a QSD or QSP through the CASQA website.
- V.F.4. A QSD applicant shall currently possess at least one of the following prerequisites:
- a. A California landscape architect registration;
  - b. A professional hydrologist registration through the American Institute of Hydrology;
  - c. A Certified Professional in Erosion and Sediment Control (CPESC)<sup>TM</sup> registration through EnviroCert International, Inc.;
  - d. A Certified Professional in Stormwater Quality (CPSWQ)<sup>TM</sup> registration through EnviroCert International, Inc.; or
  - e. Any prerequisite course approved by the State Water Board's Division of Water Quality Deputy Director in accordance with Section V.G.
- V.F.5. A QSP applicant shall currently possess at least one of the following prerequisites:
- a. A Certified Erosion, Sediment, and Stormwater Inspector (CESSWI) registered through Enviro Cert International, Inc.;
  - b. A certified inspector of sediment and erosion control registered through Certified Inspector of Sediment and Erosion Control (CISEC) Inc.;
  - c. A Construction Management degree from an accredited 4-year institution that includes coursework that covers the underlying principles of erosion and sediment control and practices of reducing pollution in stormwater; or
  - d. Any prerequisite course approved by the State Water Board's Division of Water Quality Deputy Director in accordance with Section V.H.
- V.F.6. To remain in good standing with their certification, QSDs and QSPs registered through CASQA shall:
- a. Complete 6 hours, annually, of continuing education on site assessment techniques, best management practice design and implementation, inspection techniques, or monitoring approaches. This requirement can be fulfilled in whole or in part by continuing education taken to maintain any of the approved underlying prerequisites; and

- b. Complete the online QSD or QSP renewal process every two years, including a review of materials addressing permit implementation updates, clarifications, and experiences as provided by the Construction General Permit Training Team.

**V.G. Pre-existing QSP and QSD qualification**

- V.G.1. A QSD or QSP who maintained a valid certification as of the effective date of this General Permit shall remain in good standing.
  - V.G.1.a. Existing QSDs and QSPs certified through CASQA shall, prior to the expiration date of their current certificate, certify that they have maintained a valid underlying certification and complete the recertification review or refresher training through CASQA's renewal process.
  - V.G.1.b. Existing QSD/QSPs who have self-certified with the State Water Board that they are a California licensed professional engineer or California licensed professional geologist shall complete the recertification process through the State Water Board Construction Stormwater Program website and complete self-directed training required by the State Water Board before September 1, 2024.

**V.H. QSP and QSD Prerequisite Course Qualification**

- V.H.1. The State Water Board's Division of Water Quality Deputy Director may approve the qualification of additional prerequisite courses for QSD and QSP certification.
- V.H.2. Individuals may recommend additional prerequisite courses by emailing the [Stormwater Help Desk](mailto:stormwater@waterboards.ca.gov) (stormwater@waterboards.ca.gov). The course curriculum shall meet an acceptable level of training and require continuing education to maintain their certification.
- V.H.3. The Construction General Permit Training Team will review any recommended prerequisite courses and provide feedback for the State Water Board Division of Water Quality Deputy Director's consideration. If approved, the course will be listed on the [State Water Board's Construction Stormwater Program website](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html) (https://www.waterboards.ca.gov/water\_issues/programs/stormwater/construction.html) as an approved prerequisite course.

**V.I. Water Board Rescission of a QSP or QSD Certification**

- V.I.1. The State Water Board Executive Director or a Regional Water Board Executive Officer may:
  - a. Suspend any QSD or QSP certification and require that additional training be completed as a condition of re-instatement if the Executive Director or Executive Officer finds, in writing, that the QSD or QSP in the course of acting as a QSD or QSP at one or more site(s) lacked adequate knowledge or training to perform duties required by the General Permit; and/or

- b. Rescind any QSD or QSP certification if, after providing notice and an opportunity to be heard, the Executive Director or Executive Officer finds, in writing, that the QSD or QSP has in the course of acting as a QSD or QSP at one or more site(s), (1) willfully or negligently caused or allowed a violation of this General Permit; (2) submitted false or misleading information to the State Water Board or any Regional Water Board, (3) used fraud or deception; or (4) failed to use reasonable care and good judgment.

- V.I.2. 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.

## **VI. STANDARD PROVISIONS**

### **VI.A. Duty to Comply**

- VI.A.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.
- VI.A.2. The discharger shall comply with effluent standards or prohibitions established under Clean Water Act § 307(a) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions.

### **VI.B. Need to Halt or Reduce Activity Not a Defense**

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

### **VI.C. Duty to Mitigate**

The discharger shall take all responsible steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment in violation of this General Permit, which includes ceasing discharge as necessary.

### **VI.D. Proper Operation and Maintenance**

- VI.D.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.
- VI.D.2. The discharger shall include adequate laboratory controls and appropriate quality assurance procedures for all treatment control systems.

**VI.E. Property Rights**

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.

**VI.F. Duty to Maintain Records and Provide Information**

- VI.F.1. The discharger shall maintain a paper or electronic copy of all required records and reports, including but not limited to, a copy of this General Permit and all its attachments and Fact Sheet, for three years from the date generated or date submitted whichever is later.
- VI.F.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.

**VI.G. Inspection and Entry**

- VI.G.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 project and 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 (if required by a Regional Board water quality control plan), receiving water monitoring, and/or evaluate the performance of BMPs.

**VI.H. Electronic Signature and Certification Requirements**

- VI.H.1. All documents submitted to the Water Boards (including, but not limited to, Permit Registration Documents, Annual Reports, monitoring records, and

Notices of Termination) are required to be certified by the Legally Responsible Person<sup>15</sup> or a Duly Authorized Representative<sup>16</sup> through SMARTS.

VI.H.2. All documents (e.g., designs, plans, reports) that require engineering or geologic evaluations and judgments must be prepared by, or under the direction of, appropriately licensed professionals in the State of California. The licensee must sign and provide their registration number or stamp on the documents to be submitted and certified by the Legally Responsible Person or Duly Authorized Representative.

VI.H.3. Any person signing documents under Section VI.H shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my 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. I am also aware that my user ID and password constitute my electronic signature and any information I indicate I am electronically certifying contains my signature. I understand that my electronic signature is the legal equivalent of my handwritten signature. My signature on this form certifies that my electronic signature is for my own use, that I will keep it confidential, and that I will not delegate or share it with any other person. Should I wish to delegate such authority, I will do so formally in writing and electronically notify the State Water Board using SMARTS of such delegation within 10 days of the delegation. I further certify that I will protect my electronic signature from unauthorized use, and that I will contact the State Water Board, within two business days of discovery, if I suspect that my electronic signature has been lost, stolen, or otherwise compromised.”

VI.H.4. Clean Water Act § 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.

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15 Defined in this General Permit, Attachment B (Glossary)

16 Defined in this General Permit, Attachment B (Glossary)



**VI.I. Anticipated Noncompliance**

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.

**VI.J. Reporting of Contaminated Soils**

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 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.

**VI.K. Bypass**

- VI.K.1. Bypass<sup>17</sup> is prohibited unless the discharger demonstrates one or more of the following conditions:
- a. In accordance with the bypass requirements for active treatment systems in Attachment F; or
  - b. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage<sup>18</sup>; or
  - c. 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
  - d. 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; and

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17 The intentional diversion of waste streams from any portion of a treatment facility or system.

18 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.

- e. The discharger submitted a notice to the Regional Water Board, at least 14 calendar days in advance of the need for a bypass 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. If the discharger was unable to notify the Regional Water Board in advance of a bypass the discharger shall submit written notification to the Regional Water Board within 14 days after the bypass occurs.

#### **VI.L. Upset**

- VI.L.1. To establish an affirmative defense of an upset,<sup>19</sup> a discharger must demonstrate the following through properly signed, contemporaneous operating logs or other relevant evidence:
  - a. The non-compliance discharge location;
  - 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.
- VI.L.2. An administrative determination made before an action of noncompliance occurs is not a final administrative action subject to review.
- VI.L.3. In an enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

#### **VI.M. Oil and Hazardous Substance Liability**

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 § 311.

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<sup>19</sup> 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 precipitation 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.

**VI.N. Severability**

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.

**VI.O. Reopener Clause**

- VI.O.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 §§ 122.62, 122.63, 122.64, and 124.5.
- VI.O.2. The submittal of a request by the discharger for a General Permit modification, revocation and reissuance, or termination, notification of planned changes, or anticipated non-compliance does not annul any General Permit condition.
- VI.O.3 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 §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.
- VI.O.4 This General Permit may be reopened before March 23, 2032 to revise the requirements implementing the Los Angeles and Long Beach Harbor Waters TMDL for copper, lead, and zinc, for dischargers that discharge to the Dominguez Channel or the Torrance Lateral Channel. State Water Board staff will work with interested stakeholders to develop a plan to collect additional data related to the forthcoming implementation of the 100 mg/L TSS numeric effluent limitation, including the soil screening investigation, and report to the State Water Board via the Executive Director report no later than September 1, 2024. The State Water Board will evaluate whether the additional data and other available information warrants revising the requirements implementing the Los Angeles and Long Beach Harbor Waters TMDL for copper, lead, and zinc at a publicly noticed Board meeting no later than August 31, 2028.
- VI.O.5 This General Permit may be reopened to revise the requirements implementing the Los Angeles Lakes TMDL for chlordane, DDT, dieldrin, and PCBs that discharge to Peck Road Park Lake, Echo Park Lake or Puddingstone Reservoir. State Water Board staff will work with interested stakeholders to develop a plan to collect additional data related to the implementation of the 100 mg/L TSS numeric effluent limitation, including the soil screening investigation, and report to the State Water Board via the Executive Director report no later than September 1, 2023. Upon completion of the work required by the plan, the State Water Board will evaluate whether the additional data and other available

information warrants revising the requirements implementing the Los Angeles Lakes TMDL for chlordane, DDT, dieldrin, and PCBs at a publicly noticed Board meeting.

**VI.P. Penalties for Violations of General Permit Conditions**

- VI.P.1. Clean Water Act § 309 provides significant penalties for any person who violates a permit condition implementing Clean Water Action §§ 301, 302, 306, 307, 308, 318, or 405 or any permit condition or limitation implementing any such section in a permit issued under § 402. Any person who violates any permit condition of this General Permit is subject to a civil penalty not to exceed \$37,500<sup>20</sup> per calendar day of such violation, as well as any other appropriate sanction provided by §309 of the Clean Water Act.
- VI.P.2. Clean Water Act § 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.
- VI.P.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.

**VI.Q. Water Quality Based Corrective Actions<sup>21</sup>**

- VI.Q.1. By the end of each reporting year, if the discharger's construction stormwater and/or non-stormwater discharges contain pollutants that are in violation of Receiving Water Limitations (Section IV.D) or in the event that a Responsible Discharger's discharge exceeds an applicable numeric effluent limitation 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 IV.D) or applicable numeric effluent limitations in Attachment H; and

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

21 Terms including, but not limited to, Responsible Dischargers, numeric effluent limitations and exceedances are defined in Attachment B of this General Permit.

- 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 IV.D) 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 IV.D) or applicable numeric effluent limitations in Attachment H.

VI.Q.2. The Regional Water Board or its delegate may require revisions of the discharger's water quality-based corrective actions and/or request additional supporting documentation.

#### **VI.R. Continuation of Expired General Permit**

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.

### **VII. REGIONAL WATER BOARD AUTHORITIES**

- VII.A.** Regional Water Boards (as defined in Attachment B) 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.
- VII.B.** Regional Water Boards may require a discharger to comply with additional monitoring and reporting requirements, including but not limited to, increasing sampling frequency, requiring analysis of additional parameters, increasing the frequency of inspections by the Qualified SWPPP Developer and Qualified SWPPP Practitioner, or implementation of recommendations by the Qualified SWPPP Developer and Qualified SWPPP Practitioner, pursuant to California Water Code § 13383.
- VII.C.** All Regional Water Board actions that modify requirements for compliance, pursuant to California Water Code §13383, with this General Permit shall be provided to the discharger in writing and submitted through SMARTS.
- VII.D.** Regional Water Boards may require dischargers to retain records required by this General Permit for more than the three years.
- VII.E.** 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 BMPs to address the exceedance.

- VII.F.** Consistent with California Water Code §§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 site-specific conditions.
- VII.G.** Consistent with 40 Code of Federal Regulations §§ 122.26(a)(9)(i)(D) and 122.26(a)(9)(i)(C), a Regional Water Board 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.
- VII.H.** A Regional Water Board has the authority to require a Risk Level determination to be reassessed for a site currently regulated under this General Permit, or with an active waiver, as deemed necessary, including but not limited to the following circumstances:
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.