

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

DRAFT ORDER WQ 2021-XXXX-DWQ

NPDES NO. **CAS000002**

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

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

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

AYE:

NAY:

ABSENT:

ABSTAIN:

Clerk to the Board: _____

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STATE WATER RESOURCES CONTROL BOARD**DRAFT ORDER WQ 20XX-XXXX-DWQ
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT NO. CAS000002****WASTE DISCHARGE REQUIREMENTS FOR
DISCHARGES OF STORMWATER RUNOFF ASSOCIATED WITH
CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES****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.) sections 1311 and 1342(p); also referred to as Clean Water Act section 301 and 402(p)). The United States Environmental Protection Agency (U.S. EPA) promulgates federal regulations to implement the Clean Water Act's mandate to control pollutants in stormwater runoff discharges. (Title 40 Code of Federal Regulations (CFR) Parts 122, 123, and 124). The federal statutes and regulations require discharges to waters of the United States comprised of stormwater associated with construction activity to obtain NPDES permit coverage (except operations that result in disturbance of less than one acre of total land area and that are not part of a larger common plan of development or sale). Construction activity includes, but is not limited to, clearing, demolition, grading, excavation, and other land disturbance activities. The NPDES permit shall require implementation of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate pollutants in stormwater runoff. NPDES permit coverage shall also include any additional requirements necessary to implement applicable water quality standards.
2. This NPDES permit also serves as waste discharge requirements for discharges of pollutants in stormwater runoff (stormwater discharges) associated with construction and land disturbance activities and is hereinafter referred to as General Permit.
3. A "discharger" is the entity subject to this General Permit and designates the Legally Responsible Person(s) to serve as an approved 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 “Approved Signatories” are further defined in Appendix 2 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 A).
6. This General Permit does not preempt or supersede the authority of local stormwater management agencies to prohibit, restrict, or control stormwater discharges to municipal separate storm sewer systems or other watercourses within their jurisdictions.
7. This action to adopt a general NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (Public Resources Code Section 21100, et seq.), pursuant to Section 13389 of the California Water Code.
8. Regional Water Boards establish water quality standards in water quality control plans. 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 section 131.12 and State Water Board Resolution No. 68-16 (anti-degradation policy), which incorporates applicable requirements of section 131.12, in high quality waters, discharges may not unreasonably affect beneficial uses, result in water quality less than the quality specified by water quality objectives, or cause a pollution or nuisance, except as allowed under the anti-degradation policy. Because coverage under this General Permit is available statewide, this General Permit may authorize discharges to at least some surface waters that are high quality. This General Permit requires the implementation of best conventional pollutant control technology (BCT) and best available technology economically achievable (BAT) where discharges may cause degradation. This General Permit is consistent with the maximum benefit to the people of the state. The State

Water Board finds that discharges in compliance with this General Permit will not result in degradation of high-quality waters consistent with the anti-degradation policy.

10. This General Permit serves as an NPDES permit in compliance with Clean Water Act section 402 and will be effective on XXXX XX, 20XX provided the Regional Administrator of the U.S. EPA has no objection. If the U.S. EPA Regional Administrator objects to its issuance, this General Permit will not become effective until such objection is withdrawn.
11. The Regional Water Quality Control Boards (Regional Water Boards) and State Water Board, collectively referred to as the Water Boards, shall enforce the provisions herein following adoption and upon the effective date of this General Permit.
12. Stormwater discharges from dredge spoil placement that occur outside of waters of the state (upland sites) and that disturb one or more acres of land surface from construction activity are covered by this General Permit. This General Permit does not cover the discharge of dredged or fill material to waters of the state. Construction projects that include the discharge of dredged or fill material to waters of the state should contact the applicable Regional Water Board to obtain authorization for the discharge of dredged or fill material to waters of the state.
13. 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 section 404, and by the Water Boards under Clean Water Act section 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.
14. 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.
15. The State Water Board heard and considered all comments and testimony in a public hearing on July 7, 2021 as publicly notice in accordance with state and federal laws and regulations. The State Water Board has prepared written responses to all significant comments.

16. The 2002 Homeland Security Act¹ (U.S. 116 STAT. 2135 and Title 6 U.S. Code Chapter 1 Section 101) requires any information provided to the Water Boards per a regulatory action taken by the Water Boards shall comply with the Homeland Security Act and other federal law that address security in the United States; the discharger should not submit any information that does not comply.
17. 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 (40 Code of Federal Regulations Part 122 Section 41). All other discharges are prohibited by this General Permit.
18. 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.
19. All discharges which contain a hazardous substance in excess of reportable quantities established in 40 Code of Federal Regulations Section 117.3 and 302.4, are prohibited unless a separate NPDES permit has been issued to regulate those discharges.
20. 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.
21. The State Water Board, in collaboration with the California Stormwater Quality Association and the California State University, Sacramento, Office of Water Programs, established a Construction General Permit Training Team to develop a corresponding General Permit training program and certification process for Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer (QSD) and the Qualified SWPPP Practitioner (QSP) conducting work required by this General Permit.
22. All California professional engineering, land surveying, and geology work is licensed by the Board for Professional Engineers, Land Surveyors, and

¹ [Department of Homeland Security, Homeland Security Act 107th Congress](https://www.dhs.gov/homeland-security-act-2002), November 25, 2002 <<https://www.dhs.gov/homeland-security-act-2002>>, [as of May 20, 2021]

Geologists.² Pursuant to the Professional Engineers Act (Bus. and Prof. Code Section 6700, et seq.), all engineering work is required to be performed by a California licensed professional engineer. Pursuant to the Profession Land Surveyor's Act (Bus. and Prof. Code section 8700 – 8805), 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 Section 7800 – 7887), all geological work is required to be performed by a California licencensed professional geologist.

23. 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.
24. 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 within receiving water limitations.
25. The State Water Board convened a Blue Ribbon Panel (Panel) of stormwater experts that submitted a report entitled "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Stormwater Associated with Municipal, Industrial and Construction Activities," dated June 19, 2006. The Panel concluded that numeric effluent limitations or numeric action levels are technically feasible to regulate construction stormwater discharges. The Panel concluded that numeric effluent limitations are feasible for discharges from sites that utilize an active treatment system. The Previous Permit (Order 2009-0009-DWQ, as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ) includes numeric action levels (NALs) for pH and turbidity, and specific numeric effluent limitations for active treatment system discharges. The Panel did not provide suggested conclusions for the legal implementation of total

² [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 May 20, 2021]

maximum daily loads (TMDLs) with construction stormwater sources and appropriate limitations.

26. 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.
27. This General Permit requires compliance with receiving water limitations based on water quality standards established in regional or statewide water quality control plans. The primary receiving water limitation 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 standard, 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.
28. TMDLs refer to the maximum amount of a pollutant that a water body can receive and still attain water quality standards. A TMDL is defined as the sum of the allowable loads of a single pollutant from all contributing point sources (the waste load allocations) and non-point sources (load allocations), plus the contribution from background sources (40 Code of Federal Regulations section 130.2(i)). Discharges of stormwater from construction activities are considered point source discharges, and therefore must comply with NPDES permit requirements translated to be "consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 Code of Federal Regulations section 130.7"(40 Code of Federal Regulations section 122.44 (d)(1)(vii).) In addition, Water Code section 13263, subdivision (a), requires that waste discharge requirements implement any relevant water quality control plans. Many TMDLs in water quality control plans include implementation requirements that may be translated into General Permit requirements and TMDL-specific numeric action levels and numeric effluent limitations.

29. 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.
30. Pursuant to the California Ocean Plan, discharges to Areas of Special Biological Significance are prohibited unless identified in a State Water Board-approved exception.
31. The California Ocean Plan authorizes the State Water Board to grant an exception to Ocean Plan provisions where the State Water Board determines that the exception will not compromise protection of ocean waters for beneficial uses and the public interest will be served.
32. On March 20, 2012, the State Water Board adopted Resolution 2012-0012 which contains exceptions to the California Ocean Plan for specific discharges of stormwater and non-point sources. This resolution also contains the special protections that are to be implemented for those discharges to Areas of Special Biological Significance.
33. Dischargers are only allowed to discharge to an Area of Special Biological Significance when in compliance with Areas of Special Biological Significance-specific requirements in a State Water Board-provided exception to the Ocean Plan granted to the specific discharger.
34. On August 19, 2014 the U.S. EPA amended the Clean Water Act to require all NPDES permits to include requirements to implement sufficiently sensitive test methods. This General Permit requires all laboratory analyses to be sufficiently sensitive and conducted according to test procedures under 40 Code of Federal Regulations Part 136. All analytical results less than the minimum level (reporting limit), as reported by the laboratory, will be assigned a value of zero (0) for any calculations required by this permit (e.g., numeric action level and numeric effluent limitation exceedance determinations), so long as a sufficiently sensitive test method was used as evidenced by the reported method detection limit and minimum level.
35. 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.
36. Passive treatment systems (e.g., floc logs, spray tackifiers, etc.) add chemicals to facilitate flocculation, coagulation, and filtration of suspended sediment particles to reduce turbidity. Passive treatment

systems are used as site-specific BMPs to control erosion and sediment transport. The discharge of chemicals used in passive treatment can potentially cause or contribute to acute and chronic toxicity to aquatic life in receiving waters, potentially resulting in an exceedance of narrative or numeric water quality objectives in regional or statewide water quality control plans.

37. State Water Board Resolution 2005-0006, "Resolution Adopting the Concept of Sustainability as a Core Value for State Water Board Programs and Directing its Incorporation," and Resolution No. 2008-0030, "Requiring Sustainable Water Resources Management," include performance standards for post-construction BMPs. The standards include the use of permanent post-construction BMPs that manage stormwater runoff rates to match pre-construction project site hydrology, and to sustain and ensure the physical structure and biological integrity of aquatic ecosystems in the receiving waters. This "runoff reduction" approach is analogous in principle to low impact development (LID) and is proven to protect watersheds and waterbodies from hydrologic-based adverse changes and pollution impacts associated with the post-construction landscape.

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

II. SCOPE OF GENERAL PERMIT COVERAGE

A. Construction Projects Subject to this General Permit

This General Permit covers construction projects that include construction activities that result in a land 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, demolition, grading, excavation, stockpiling, and reconstruction of existing facilities involving removal and replacement;
2. Construction activity related to residential, commercial, or industrial development on lands currently used for agriculture including, but not limited to, the construction of buildings related to agriculture that are considered industrial pursuant to U.S. EPA regulations, such as dairy barns or food processing facilities;
3. Construction activity associated with linear underground and overhead projects. A list of construction activity associated with linear underground and overhead projects can be found in Section II.C of this Order;
4. Construction activity associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities pursuant to 40 Code of Federal Regulations section 122.26(c)(1)(iii), which;

³ These attachments are part of this General Permit itself and are not separate documents that are capable of being updated independently by the State Water Board.

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

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

Lahontan region must also comply with the Lahontan Region Project Guideline for Erosion Control (R6T-2016-0010).⁴

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

⁴ Lahontan Regional Water Quality Control Board, [Order NO. R6T-2016-0010](https://www.waterboards.ca.gov/lahontan/water_issues/programs/storm_water/docs/r6t_2016_0010_cgp_combined.pdf) (March 10, 2016), <https://www.waterboards.ca.gov/lahontan/water_issues/programs/storm_water/docs/r6t_2016_0010_cgp_combined.pdf> [as of May 20, 2021]

conditions of 40 Code of Federal Regulations section 122.26(c)(1)(iii) as described in this General Permit.

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

Dischargers with linear underground and overhead projects shall comply with the conditions and requirements in this Order and Attachment A, A.1, and A.2 of 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;
 - ii. Communications, including internet, telephone, telegraph, radio, or television messages;
 - c. Affiliated facilities and substructures such as substations, towers, poles and ancillary facilities.
2. Construction support activities (as defined in Appendix 2 of this General Permit) associated with linear underground and overhead projects include, but are not limited to:
 - a. Activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment, vegetative management, and associated ancillary facilities); and;
 - b. Activities including underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavating, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation construction that will disturb less than one acre, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and pavement repair or replacement, and stockpile/borrow locations.

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

1. Linear underground and overhead project construction activity does not include linear routine maintenance projects. Routine maintenance projects are projects associated with operations and maintenance activities that are conducted on existing lines and facilities and within existing right-of-way, easements, franchise agreements, or other legally binding agreements of the discharger. Routine maintenance projects include, but are not limited to projects that are conducted to:
 - a. Maintain the original purpose of the facility or hydraulic capacity;
 - b. Update existing lines⁵ and facilities to comply with applicable codes, standards, and regulations regardless 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

⁵ Update existing lines includes replacing existing lines with new materials or pipes.

are covered by a Notice of Intent and SWPPP of a third party or municipal agency.

III. OBTAINING, REVISING, AND TERMINATING PERMIT COVERAGE

A. Obtaining Permit Coverage for Construction Projects

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

1. The Legally Responsible Person shall electronically certify and submit the following applicable Permit Registration Documents through SMARTS⁶ and obtain a WDID prior to the commencement of construction activity. Failure to obtain General Permit coverage for stormwater and non-stormwater discharges to waters of the United States is a violation of the Clean Water Act and the California Water Code.
 - a. Notice of Intent, including Risk Level determination as described in Attachment B;
 - b. Site Drawings and Maps;
 - c. Stormwater Pollution Prevention Plan (SWPPP) (see Section IV.O, below);
 - d. Applicable post-construction calculations and supporting documentation (e.g., specifications for a basin) or documentation proposing compliance with an existing permitted Phase I or Phase II MS4 post-construction requirements; and,
 - e. Annual fee per the current 23 California Code of Regulations Chapter 9 fee schedule for NPDES stormwater permits.

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

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

B. Obtaining Permit Coverage for Linear Underground and Overhead Projects

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

1. A discharger for a linear underground and overhead project shall obtain General Permit coverage under one or more applications submitted through the State Water Board Stormwater Multiple Application and Report Tracking System (SMARTS), per the requirements in A.2 of this General Permit.
2. The Legally Responsible Person shall electronically certify and submit the following applicable Permit Registration Documents through SMARTS⁷ and obtain a WDID prior to the commencement of any construction activities. Failure to obtain General Permit

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

coverage for stormwater and non-stormwater discharges to waters of the United States is a violation of the Clean Water Act and the California Water Code.

- a. Notice of Intent, including LUP Type determination as described in Attachment A.1;
 - b. Site Drawings and Maps;
 - c. Stormwater Pollution Prevention Plan (SWPPP) (see Section IV.O, below);
 - d. Applicable post-construction calculations and supporting documentation (e.g., specifications for a basin) or documentation proposing compliance with an existing permitted Phase I or Phase II MS4 post-construction requirements; and,
 - e. Annual fee per the current 23 California Code of Regulations Chapter 9 fee schedule for NPDES stormwater permits.
 - f. All applicable additional Permit Registration Document information as required in Attachment A.2 of this General Permit.
3. Regulatory Coverage for LUP Segments
- a. The discharger may separate a large LUP into separately-regulated segments if construction is non-continuously phased or constructed by different contractors.
 - b. LUP segments may consist of different LUP Types.
 - c. The discharger shall include a clear description in the Permit Registration Documents regarding how each LUP segments relates to the overall LUP by identifying one or more of the following descriptions:
 - i. LUP segment boundaries managed by separate contractors;
 - ii. LUP segment construction time periods (e.g., project phases) with distinct construction time periods; or
 - iii. Corresponding LUP segments that cross Regional Water Board(s) boundaries (e.g., different segments of same LUP located within different Regional Water Board jurisdictions) must file a separate PRDs.

4. Area-wide Regulatory Coverage for LUP Projects
 - a. Dischargers with multiple non-contiguous linear underground and overhead projects may submit one Notice of Intent for General Permit coverage, if its linear underground and overhead projects:
 - i. Are located within one Regional Water Board boundary;
 - ii. Have the same Legally Responsible Person; and
 - iii. Are wholly Type 1 linear underground or overhead projects.
 - b. LUP dischargers with area-wide permitting coverage shall submit prior to the commencement of any construction activities for each non-contiguous site:
 - i. A Linear Construction Activity Notification (LCAN); and
 - ii. Site-specific SWPPP.
5. An applicant is considered to have General Permit regulatory coverage and can commence construction activity upon receipt of a Waste Discharge Identification (WDID) Number generated by SMARTS and for Area-wide coverage the submittal of the LCAN. Dischargers shall post their site-specific WDID number in a site location that is visible to the public.

C. Regulatory Coverage under the Previous Permit

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

Water Board are not subject to this General Permit (unless the discharger subsequently submits new Permit Registration Documents). Dischargers who have not received Notice of Termination approval from the Regional Water Board shall re-certify for coverage under this General Permit through SMARTS prior to the effective date of this General Permit.

4. The State Water Board may administratively terminate any site's coverage under the previous permit 14 days after the effective date of this General Permit for failure to obtain coverage under this General Permit.

D. Small Construction Rainfall Erosivity Waiver

1. Dischargers are eligible for the Small Construction Rainfall Erosivity Waiver (Waiver) if:
 - a. The site is between one and five acres; and
 - b. The construction activity will take place during a period when the calculated rainfall erosivity factor is less than five.
2. Dischargers with small sites that are part of a larger common plan of development do not qualify for a Waiver unless the entire project qualifies for a Waiver.
3. To request a Waiver, the Legally Responsible Person shall submit a Waiver application through SMARTS, and pay 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.
4. A discharger qualifying for a Waiver shall obtain a Waiver Identification Number prior to starting any land disturbances, construction, or demolition activities.
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.
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.

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.
8. The discharger shall post the unique Waiver Identification Number in a site location that is visible to the public.
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.
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.

E. Notice of Non-Applicability (NONA)

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

that the site location does not discharge to waters of the United States.

F. Revising Permit Coverage Information

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

1. Update Construction Start and End Dates

- 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.
- 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.

2. Reduce Acreage

- 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 acreage covered under the General Permit. The discharger reducing 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. 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.G below; and,
 - iii. A revised SWPPP to match current site conditions and current personnel (QSD, QSP, and delegates).
- b. The discharger shall maintain General Permit coverage for any site, parcel, or individual lot that has not received

Notice of Termination approval or covered under the new owner's Notice of Intent.

3. Removal of LUP Area-wide LCAN sites

- a. Upon completion of construction activities for a specific LUP site covered under the LUP Area-wide coverage, the discharger shall submit a Linear Construction Termination Notification (LCTN) for each LCAN.
- b. The site must meet the termination conditions in Section III.H.3 below.
- c. The LCTN must include photos demonstrating final stabilization.
- d. Submittal of the LCTN terminates coverage for the specific LCAN site.

4. Increase Acreage

- a. When the disturbed acreage of the site has increased, the discharger shall certify and submit the following Permit Registration Documents revisions in SMARTS, through a Change of Information, within 30 days of the increase in acreage:
 - i. A revised Notice of Intent indicating the new site size;
 - ii. 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.G below; and,
 - iii. A revised SWPPP to match current site conditions and current personnel (QSD, QSP, and delegates).
- b. The discharger shall submit the applicable fees, in accordance with the revised fee notification, within 14 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.

- c. If the increased acreage is greater than one-fourth mile from the existing site boundary, the discharger is required to submit a new Notice of Intent.

5. Change Ownership

- 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 and certification that the new owner has been notified of applicable requirements to obtain new General Permit for the subject land. 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.
- b. General Permit coverage is not transferable to a new owner. The Legally Responsible Person for the new discharger will need to submit new Permit Registration Documents to obtain their own WDID number prior to continuing construction activities and/or installing final landscaping (including meeting conditions for termination of coverage). The Legally Responsible Person for the new discharger will enter the original project start date (initial date of disturbance) from the previous discharger(s).

G. Inactive Sites

1. Dischargers with sites where all construction activities (including passive treatment technology, active treatment systems, and/or active equipment) will be suspended for 30 days or more may submit a Change of Information through SMARTS to amend the SWPPP.
 - a. Amendments to the SWPPP shall provide a map depicting the inactive site(s) and describe the temporary stabilization BMPs being implemented.
2. Upon Regional Water Board approval of the Change of Information, sampling may be suspended, and monitoring and inspections may be reduced as follows:
 - a. The QSD shall visit the inactive site 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.

- b. A QSP or trained delegate shall visit the inactive site at least once every calendar month, and within 72 hours prior to any forecasted precipitation event. The QSP or trained delegate shall conduct visual inspections of all BMPs listed in the SWPPP, ensure that BMPs are properly maintained, and perform corrective actions where necessary.
 - c. The above inspections are not required during dangerous weather conditions or when access to the site is unsafe.
3. Dischargers wishing to resume construction activities or the use of passive treatment technology, active treatment systems, and/or active equipment shall submit a Change of Information through SMARTS to amend the SWPPP. Upon Regional Water Board approval of the Change of Information, the discharger will be required to comply with all applicable requirements of this General Permit to resume construction activities at the site.

H. Terminating Permit Coverage

1. To terminate General Permit coverage, the Legally Responsible Person shall electronically certify and submit the required documentation (Section III.H.2 below) to demonstrate compliance with all General Permit coverage termination requirements, including post-construction BMPs and low impact development features.
2. The Legally Responsible Person shall electronically certify and submit the following through SMARTS to be considered for General Permit coverage 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.

3. 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;
 - d. Construction materials and wastes have been disposed of properly; and,
 - e. Soils disturbed by construction activities have been permanently stabilized (final stabilization) 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.
4. The discharger has ensured the QSP completed on-site visual observations, verified the site complies with all Notice of Termination requirements, including installation of post-construction stormwater runoff BMPs and low impact development features, and the Legally Responsible Person has included this information in the Notice of Termination certified and submitted through SMARTS;
5. The discharger has demonstrated that the site complies with all Notice of Termination conditions above (Section III.G) and all final stabilization conditions by one of the following methods:
 - a. **70 percent final cover method.** No computational proof required. Requires permanent vegetative cover to be evenly established over 70 percent of all disturbed and exposed areas of soil (non-paved or non-built). In areas that naturally have low vegetative coverage (e.g., deserts), 70 percent of natural conditions is acceptable. Photos of all site areas are required to verify compliance with the 70 percent final cover requirement.

OR:

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

OR:

- c. **Custom method.** The discharger may request approval from the Regional Water Board to use a method or analytical model other than Section III.5.a and 5.b above to demonstrate that the site complies with the “final stabilization” requirements. Photos of all site areas are required to verify the custom method used.

6. The Legally Responsible Person shall certify and submit a final site map, as part of the Notice of Termination documents through SMARTS. The Notice of Termination final site map shall, at minimum, include the following:
 - a. Elevation contours;
 - b. Project boundaries and adjacent lands;
 - c. Developed drainage basin boundaries and discharge location points;
 - d. Site entrances and exits, lot boundaries, roads, structures, and features related to the project that may be used as a reference;
 - e. Specific permanent erosion control BMPs, post-construction BMPs, and post-construction low impact development features;
 - f. Individual erosion control BMPs (including final landscaping) identified using hatch patterns, symbols, or shading unique to each BMP;
 - g. Location and orientation of all photos used to document final site conditions and demonstrate compliance with post-construction requirements of this General Permit; and,

- h. If applicable, areas of the site being transferred to new ownership, and the name and contact information of the owner.
7. The Notice of Termination photo documentation for General Permit compliance verification shall include photos of the site's final site conditions; post-construction low impact development features (e.g., stormwater capture/treatment features); a description of the corresponding location and orientation of photos as indicated on the final site map; and,
8. The Notice of Termination shall include information on the specification used and where to find the specification when post-construction features are constructed in accordance with local Phase I or II municipal codes and/or ordinances.
9. The Notice of Termination shall include a long-term maintenance plan⁸ for the post-construction stormwater runoff BMP and low impact development features being implemented.
10. 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.
11. 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

A. Authorized Non-Stormwater Discharges

1. Non-stormwater discharges from the following de-chlorinated potable and non-potable water sources are authorized if they

⁸ For the purposes of this requirement, a long-term maintenance plan shall be designed for a minimum of five years, and describe the responsible party(ies) and procedures to ensure that post-construction features are adequately maintained.

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; and,
 - h. Water to control dust.
2. The above non-stormwater discharges are authorized under the following conditions:
- a. The discharge is not routed through site areas with exposed soil, except for water used for dust control or to vegetation irrigation to stabilize areas;
 - b. The discharge does not cause or contribute to an exceedance of water quality standards in the receiving water;
 - c. The discharge complies with other applicable requirements of this General Permit including applicable action levels, effluent limitations, and monitoring and reporting requirements;
 - d. The discharge is not prohibited by an applicable regional or statewide water quality control plan;
 - e. The discharge is in accordance with other applicable State and Regional Water Board Orders; and
 - f. The discharge does not contain toxic constituents in toxic amounts and does not cause toxicity in the receiving water body.

B. Discharge Prohibitions

1. Dischargers shall comply with all applicable discharge prohibitions contained in applicable water quality control plans.
2. Discharges to Areas of Special Biological Significance (ASBS) are prohibited by the California Ocean Plan, unless granted an exception issued by the State Water Board.
3. All discharges from the site are prohibited except for the stormwater and non-stormwater discharges specifically authorized by this General Permit or another NPDES permit. The discharger shall notify the Regional Water Board of existing or anticipated non-stormwater discharges not authorized by this General Permit, to determine if regulatory coverage is necessary through a separate NPDES permit.
4. All of the following discharges are prohibited:
 - a. Debris and trash resulting from construction activities, in accordance with State Water Board Resolution 2015-0019, Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California. If the discharger can satisfactorily demonstrate to the State or Regional Water Board its inability to comply with the outright prohibition of the discharge of debris and trash, then State or Regional Water Board may require the discharger to either:
 - i. Install, operate, and maintain full capture systems for all storm drains that capture runoff from the facility or site regulated by the NPDES; or,
 - ii. Install, operate and maintain any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls for the facility or site regulated by the NPDES permit. The discharger shall demonstrate that such combination achieves full capture systems equivalency.
 - b. Passive treatment chemicals or products that contain cationic polyacrylamides;
 - c. Wastewater from washout or cleanout of areas, structures or equipment with concrete, grout, stucco, paint or other construction materials;

- d. Form-release oils and curing compounds;
- e. Fuels, oils, fluids, or other materials used in vehicle and equipment operation and maintenance;
- f. Soaps, solvents, or detergents used in vehicle and equipment washing or external building wash-down; and
- g. Toxic or hazardous substances from a spill or other release (e.g., asbestos, lead, mercury, or PCBs).

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C. Effluent Limitations and Action Levels

1. Narrative Effluent Limitations

- 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 section 117.3 and 302.4, unless a separate NPDES Permit has been issued to regulate those discharges.
- 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.

2. Numeric Effluent Limitations (NELs)⁹

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

3. Numeric Action Levels (NALs)¹⁰

- a. All dischargers that are Responsible Dischargers for a TMDL with a waste load allocation that was translated into a TMDL-related NAL, are subject to the NAL as indicated by Table H-2 in Attachment H.

⁹ Refer to Appendix 2 of this General permit for the definitions of NELs and NEL exceedances.

¹⁰ Refer to Appendix 2 of this General permit for the definitions of NALs and NAL exceedances.

- b. Dischargers with dewatering activities not subject to a separate NPDES permit are subject to the NALs required in Attachment J.
- c. For Risk Level 2 and 3 site, and Type 2 and 3 linear underground and overhead project, stormwater and authorized non-stormwater discharges the NAL for pH is provided as a range where the lower NAL is 6.5 pH standard units and the upper NAL is 8.5 pH standard units. The discharger may either report the median value to two decimal places or use an online pH averaging calculator, available on the Water Board Construction General Permit website, or any equivalent online calculator. An NAL exceedance for pH is the analytical result of the median or calculated average value of at least three samples per sampling location per day of each qualifying precipitation event, taken at the site's discharge location(s), that is below the lower NAL or above the upper NAL, as shown in Table 1 of this Section.
- d. For Risk Level 2 and 3 site, and Type 2 and 3 linear underground and overhead project, stormwater and authorized non-stormwater discharges the NAL for turbidity is 250 Nephelometric Turbidity Units (NTU). An exceedance of the turbidity NAL occurs when the analytical result of the mean value of at least three samples, taken at the site's discharge location(s), is over 250 NTU, as shown in Table 1 of this Section.

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

| Parameter | Test Method | Discharger Type | Method Detection Limit | Units | Numeric Action Level (NAL) |
|------------------------|--|--|----------------------------|----------|------------------------------------|
| TMDL-related Pollutant | U.S. EPA-approved test method for the 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 LUP Type 2 And 3 | 0.2 | pH Units | Lower NAL = 6.5 Upper NAL = 8.5 |
| Turbidity | EPA 0180.1 and/or field test with calibrated portable instrument | Risk Level 2 And 3 LUP Type 2 And 3 | 1 | NTU | 250 NTU |

D. Receiving Water Limitations

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.
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.
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.

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.

E. Linear Underground and Overhead Project Requirements

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

F. Risk Level 1 Requirements

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

G. Risk Level 2 Requirements

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

H. Risk Level 3 Requirements

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

I. Active Treatment System Requirements

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

J. Passive Treatment Technology Requirements

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

K. Total Maximum Daily Load (TMDL) Implementation Requirements

1. Responsible Dischargers are dischargers who discharge stormwater and authorized non-stormwater discharges, either directly or through a municipal separate sewer system (MS4), to impaired water bodies or watersheds identified in a U.S. EPA approved TMDL with a waste load allocation assigned to construction stormwater sources and have identified one or

more TMDL-specific pollutants in the sites construction stormwater discharge.

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

L. Discharges Subject to the California Ocean Plan

1. Discharges to Ocean Waters

- 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.
- 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 Section 13383.

2. Discharges Granted an Exception for Areas of Special Biological Significance (ASBS)

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

M. Dewatering Requirements

1. Dischargers with dewatering activities subject to a separate NPDES permit (e.g., de minimis and low threat discharges) shall obtain coverage as required by the State or Regional Water Boards.

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.

N. Post-Construction Requirements

1. All dischargers shall implement BMPs to reduce pollutants in stormwater discharges that are reasonably foreseeable after all construction phases have been completed at the site (post-construction BMPs).
2. All dischargers shall comply with the following post-construction runoff reduction requirements unless the discharger is required to comply with equivalent or more stringent post-construction requirements of an existing NPDES Phase I or II municipal separate storm sewer system (MS4) permit. The discharger shall comply with this General Permit's post-construction requirements if the permit registration documents were submitted prior to the effective date of applicable post-construction requirements of an adopted Phase I or Phase II MS4 permit.
3. The discharger shall upload an attachment containing the applicable post-construction requirements and/or web-source with their permit registration documents submittal through SMARTS if the post-construction requirements of an applicable MS4 permit are equivalent or more stringent than this General Permit.
4. The discharger shall use non-structural and structural measures to replicate the pre-project water balance (for this General Permit, defined as the volume of rainfall that ends up as runoff) for the smallest storms up to and including the 85th percentile, 24-hour storm event (or the smallest storm event that generates runoff, whichever is larger).
5. When runoff volume cannot be managed using non-structural controls, the discharger shall demonstrate that non-structural practices are:
 - a. technically infeasible;
 - b. economical impracticable; and,
 - c. the structural controls will result in greater protection against water quality impacts.

6. The discharger shall submit documentation that the applicable Regional Water Board approved the use of structural controls as an additional permit registration document in SMARTS.
7. For sites with disturbed area exceeding two acres, the discharger shall preserve the pre-construction drainage density (miles of stream length per square mile of drainage area) for all drainage areas within the area serving a first order stream¹¹ or larger stream and ensure that post project time of runoff concentration is equal to or greater than pre-project time of concentration.

O. Stormwater Pollution Prevention Plan (SWPPP) Requirements

1. The discharger shall ensure the site's SWPPP complies with the below conditions:
 - a. A site-specific SWPPP is developed, and amended if 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 shall be available at the site and made available upon request by a federal, State, or municipal inspector. When the original SWPPP is retained by a crewmember in a construction vehicle and is not currently at the site, current copies of the BMPs and map/drawing shall be left with the field crew and the original SWPPP shall be made available through a request by radio or telephone. A current copy of the site-specific SWPPP and any site inspection reports required

¹¹ A first order stream is defined as a stream with no tributaries.

by this General Permit may be kept in electronic format at the site so long as the information requested by a federal, State, or municipal inspector can be made available during an inspection. All maps shall be legible and available in hard copy at the site.

2. The SWPPP shall include:

- a. Identification of all pollutants, their sources, and control mechanism, including sources of sediment associated with all construction activities (e.g., sediment, paint, cement, stucco, cleaners, site erosion);
- b. Scheduled sequence of major activities, including implementation of BMPs that minimize the impacts to waters of the United States. Major activities included but are not limited to clearing, grubbing, demolition, excavating, grading, soil stockpiling, utility installation, hardscape, vertical build, post-construction BMP installation, and the installation of BMPs and planting to reach final stabilization;
- c. Description of site-specific BMPs implemented to reduce or eliminate stormwater pollution, including the following, if applicable:
 - i. Active treatment systems (Active Treatment System Plan as required by Attachment F);
 - ii. Passive Treatment Technologies (Passive Treatment Plan as required by Attachment G);
 - iii. BMPs implemented to address applicable Total Maximum Daily Loads implementation requirements (as required by Attachment H); and,
 - iv. 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 another NPDES permit;

- f. Description of efforts to minimize pollutants discharged from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be captured and treated or disposed of to mitigate impacts to water quality.
- g. Description of efforts to minimize exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).
- h. Description of spill and leak prevention and response plan including:
 - i. Procedures that effectively address hazardous and non-hazardous spills;
 - ii. Spill and leak response equipment and materials to be available on-site, cleaned up immediately, and disposed of properly; and,
 - iii. Appropriate personnel are assigned and trained for spill and leak prevention and response.
- i. Pollutant source assessment documentation, 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. Dischargers shall follow these 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:
 - Are used in construction activities;
 - Are stored on-site;

- Were spilled or released during construction activities or past land use activities and not cleaned up; and,
 - 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.
 - 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.
- j. Construction Site Monitoring Program that describes methods and procedures for monitoring discharges in accordance with the applicable Attachment A, C, 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 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:

If the discharger is part of a qualified regional watershed-based monitoring program the discharger may be eligible for relief from the monitoring requirements in the applicable Attachment (A, C, 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.

k. Title Sheet 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)
- vii. Signature of the QSD(s) who prepared the SWPPP; and,
- viii. Signature of the Legally Responsible Person and the QSP(s).

l. Pre-Earthwork Drawing with:

- i. Site layout (existing topography);
- ii. Site and project boundaries;
- iii. Areas disturbed during geotechnical or other preconstruction investigation work;

- iv. Existing roads and trails;
 - v. Drainage areas;
 - vi. Discharge locations;
 - vii. Sampling locations;
 - viii. Locations of erosion control BMPs;
 - ix. Locations of sediment control BMPs;
 - x. Locations of run-off BMPs;
 - xi. Temporary and/or permanent run-on conveyance (if applicable);
 - xii. Locations of all sediment control BMPs;
 - xiii. Locations of sensitive habitats, watercourses, features which are not to be disturbed, contaminated areas, or other relevant features and associated BMPs; and,
 - xiv. Locations of storage areas for waste, construction materials, project staging areas, stockpiles, vehicles, equipment and vehicle maintenance, loading/unloading of materials, site access (entrance/exits), fueling, water storage, water transfer for dust control, demolition, compaction areas, and areas of other construction support activities.
- m. 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. Active areas of soil disturbance (cut or fill);

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

P. Annual Reporting Requirements

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 is active for at least 90 days within the reporting period.
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.
3. The Annual Report shall consist of the following:
 - a. The summary of all stormwater sampling and monitoring 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 precipitation snow depth/rain gauge; and,
 - g. All visual inspection and sample collection exception records and reports.

V. DISCHARGER ROLES AND SITE PERSONNEL

A. Legally Responsible Person

1. The Legally Responsible Person, as defined in Appendix 2, is responsible for all site activity affiliated with General Permit compliance and non-compliance.
2. The Legally Responsible Person shall ensure that the SWPPP and any required amendments are developed by a certified QSD. SWPPP changes or amendments shall be uploaded through SMARTS within 14 calendar days.

3. The Legally Responsible Person shall ensure that all persons responsible for implementing this General Permit's requirements for a project shall be appropriately licensed or certified in accordance with this General Permit. For example, the Legally Responsible Person shall verify personnel serving as QSD(s) or QSP(s) have an active and current certificate, and engineering and/or geology work performed for the site is conducted by a California licensed professional.
4. The Legally Responsible Person shall ensure that the correct construction start and end date are:
 - a. Used for each regulated construction project;
 - b. Listed in SMARTS; and,
 - c. Included on the unique WDID notification form in a site location viewable by the public.
5. The Legally Responsible Person shall ensure project data and contact information is current in SMARTS.
6. The Legally Responsible Person may designate a Duly Authorized Representative, as defined in Appendix 2, to fulfill the responsibilities of the Legally Responsible Person.
7. If a Legally Responsible Person changes within an organization or company, the responsibility may be transferred to the new person without submitting a Notice of Termination. The new Legally Responsible Person shall recertify all current Permit Registration Documents associated with the WDID in SMARTS.

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

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

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

A QSP applicant shall currently possess at least one of the following prerequisites:

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

A QSD applicant shall currently possess at least one of the following prerequisites:

1. A California professional engineer registration;
2. A California professional geologist or engineering geologist registration;
3. A California landscape architect registration;
4. A professional hydrologist registration through the American Institute of Hydrology;
5. A Certified Professional in Erosion and Sediment Control (CPESC)TM registration through EnviroCert International, Inc.;
6. A Certified Professional in Stormwater Quality (CPSWQ)TM registration through EnviroCert International, Inc.; or,
7. A Certification from a State Water Board-sponsored or approved QSD prerequisite training course.
8. Any prerequisite course approved by the State Water Board's Division of Water Quality Deputy Director in accordance with Section V.G.1.

9. A California licensed professional engineer, land surveyor, or geologist may self-certify their responsibility to act as a QSD with the State Water Board through SMARTS.
10. Consistent with Title 16, California Code of Regulations, Section 475 Code of Professional Conduct, a California Board for Professional Engineers Land Surveyors and Geologists (CBPELSG) licensee shall provide service for a project in a manner that is consistent with the laws, codes, ordinances and regulations applicable to that project. A CBPELSG licensee shall not misrepresent their scope of authority affiliated with their professional license.
11. The State Water Board expects that a CBPELSG licensee serving a discharger enrolled in this General Permit has thorough knowledge of the conditions and requirements of this General Permit and the required supporting documents and information. A CBPELSG licensee serving a discharger shall have a fundamental knowledge of erosion and sediment control, and best management practices for treating site pollutants to protect waters of the United States.
12. A QSD may perform the work of a QSP.

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

1. The Discharger shall retain a QSD from the project beginning through the approved Notice of Termination.
2. The QSD is required to assess how construction activities will affect sediment transport, erosion, and other discharges of pollutants in stormwater runoff in the SWPPP design and implementation. The QSD is required to revise the SWPPP to address potential problems identified by visual observations, sampling data, comments from the QSP, or their own site observations.
3. The QSD is required to include in the SWPPP the name, email, and phone number of all the QSP-trained delegate(s).

4. The Discharger shall ensure that the QSD performs the following on-site visual observations¹²:
 - 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.

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

1. The discharger shall ensure that a QSP reviews work performed by delegated site personnel including sampling, analysis, and other required tasks listed in the SWPPP.
2. The discharger shall ensure that the QSP performs the following on-site visual observations¹³:
 - a. Once every calendar month;
 - b. Within 72 hours prior to a forecasted precipitation event to inspect areas of concern to verify the status of any deficiencies, BMPs, or other identified issues at the site.

¹² These on-site visual observation requirements are the minimum required and may be increased by the discharger or QSD during times of high-risk construction activities, excessive site problems, or other conditions that warrant increased oversight by the QSD.

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

- c. Within 14 days after a numeric action level exceedance the QSP shall visually inspect 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.
3. The discharger shall ensure that the QSP verifies the following:
- a. All BMPs required in the SWPPP are implemented, correctly installed, inspected, and maintained;
 - b. Track out of construction related material at site entrances and exits is controlled;
 - c. The SMARTS generated WDID notification form in a site location viewable by the public, kept up to date, and the start and end dates are correct and match the dates listed in SMARTS for the project;
 - d. Sampling protocols for stormwater and non-stormwater discharges are correctly performed as described in the SWPPP by on-site trained personnel delegated by the QSP (including, but not limited to, taking representative samples of the runoff);
 - e. Contact information including, name, phone number and email address, is updated within 90 days of a change and correct as listed in SMARTS for the discharger, QSD, and QSP; and,
 - f. Photo documentation is included in the SWPPP for: problem areas of erosion, new sediment deposition, unauthorized non-stormwater discharges, and/or failed BMPs.

E. Discharger's Responsibilities for Delegates' Performance

1. The discharger may authorize a QSP to delegate visual monitoring, discharge sampling, and/or maintenance and repair activities to on-site staff (e.g., superintendent, project manager, foreman, contractor) that has received training for the site-specific BMPs in the SWPPP (delegate). The discharger shall ensure the QSP provides site-specific training that meets criteria set by the Construction General Permit Training Team (CGPTT) and a log of each individual trained on the site-

specific SWPPP when delegating the following requirements for this General Permit to an individual:

- a. Installation and maintenance of BMPs;
 - b. Verification that BMPs are functioning between QSP visits; and
 - c. Sampling stormwater and non-stormwater discharges.
2. The discharger shall ensure the following for QSP-delegates:
- a. The QSP has determined the delegate(s) can perform the visual monitoring and sampling tasks prior to fully delegating the responsibility to the individual;
 - b. The delegate(s) name, email, and phone number are included in the SWPPP and kept current in the certified and submitted SWPPP in SMARTS;
 - c. The current delegate(s) are maintained in the certified and submitted SWPPP in SMARTS through a SWPPP amendment (Change of Information) prior to the delegate performing the delegated function; and,
 - d. The delegate(s) have a competent understanding of the sampling procedures, the BMPs used on the site, and the system used to record and report issues back to the QSP within 24 hours when a corrective action is needed.
3. Having a delegate does not necessarily replace the QSP requirements of Section V.D and does not replace the QSD requirements in Section V.C.
4. The discharger is responsible for all work done by delegated site personnel.

F. Pre-existing QSP and QSD qualification

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

G. QSP and QSD Prerequisite course qualification

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

H. Water Board Rescission of a QSP or QSD Certification

1. The State Water Board Executive Director or a Regional Water Board Executive Officer may:
 - a. Require, in writing, additional training for the QSD or QSP after providing the QSD or QSP the basis for their decision; 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.
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**A. Duty to Comply**

1. The discharger shall comply with all General Permit conditions and requirements. Any General Permit non-compliance

constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal of General Permit coverage.

2. The discharger shall comply with effluent standards or prohibitions established under Clean Water Act Section 307(a) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this General Permit has not yet been modified to incorporate the requirement.

B. Need to Halt or Reduce Activity Not a Defense

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

C. Duty to Mitigate

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

D. Proper Operation and Maintenance

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

E. Property Rights

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

F. Duty to Maintain Records and Provide Information

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

G. Inspection and Entry

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

H. Electronic Signature and Certification Requirements

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

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

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.

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

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

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

I. Anticipated Noncompliance

1. The discharger shall provide advance notice, in writing, to the applicable Regional Water Board and local stormwater management agency of any planned changes in site

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

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

construction activities that may result in non-compliance with this General Permit.

J. Reporting of Contaminated Soils

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

K. Bypass

1. Bypass¹⁶ 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 damage¹⁷; 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

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

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

- 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
- 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. The discharger unable to notify the Regional Water Board in advance of a bypass shall submit written notification to the Regional Water Board within 14 days after the bypass occurs.

L. Upset

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

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

2. An administrative determination made before an action of noncompliance occurs is not a final administrative action subject to review.
3. In an enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

M. Oil and Hazardous Substance Liability

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

N. Severability

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

O. Reopener Clause

1. This General Permit may be modified, revoked and reissued, or terminated for cause due to promulgation of amended regulations, receipt of U.S. EPA guidance concerning regulated activities, judicial decision, or in accordance with 40 Code of Federal Regulations section 122.62, 122.63, 122.64, and 124.5.
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.
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 Section 307(a) for a toxic pollutant which is present in the discharge and the standard or prohibition is more stringent than any pollutant limitation in this General Permit.

The Water Boards shall provide the public and dischargers notice of the action.

P. Penalties for Violations of General Permit Conditions

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

Q. Water Quality Based Corrective Actions²⁰

1. Within 60 days of a determination by the discharger or written notification by the Regional Water Board or its delegate that 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 (NEL) in Attachment H, the Discharger shall:
 - a. Conduct a site assessment to identify pollutant source(s) within the site that are associated with construction

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

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

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,
 - 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.
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.

R. Continuation of Expired General Permit

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

VII. REGIONAL WATER BOARD AUTHORITIES

- A. Regional Water Boards (as defined in Appendix 2) may terminate General Permit coverage upon determination that a discharger has failed to comply with General Permit requirements. The Regional Water Boards may also terminate General Permit coverage upon determination that the subject discharges must be regulated through a separate Regional Water Board-issued NPDES permit.

- B. Pursuant to California Water Code section 13383, Regional Water Boards may require a discharger to comply with additional monitoring and reporting requirements, including but not limited to, sampling and analysis of discharges and/or increasing the frequency of inspections and recommendations by the Qualified SWPPP Developer and Qualified SWPPP Practitioner.
- C. All Regional Water Board actions that modify requirements for compliance, pursuant to California Water Code Section 13383, with this General Permit shall be provided to the Legally Responsible Person in writing and submitted through the current Water Board-approved system (the Stormwater Multiple Application and Report Tracking System, or SMARTS) within 30 days of the action.
- D. Regional Water Boards may require dischargers to retain records required by this General Permit for more than the three years.
- 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.
- F. Consistent with Water Code Section 13350(a) and/or 13376, Regional Water Boards finding a discharger in violation of a prohibition or requirement in this General Permit with the potential to discharge pollutants into the waters of the United States, may require a discharger to revise and re-submit the SWPPP, other required documents and/or implement additional BMPs to address site-specific conditions.
- G. Consistent with 40 Code of Federal Regulations section 122.26(a)(9)(i)(D) and 122.26(a)(9)(i)(C), a Regional Water Board 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.
- 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.
- I. All Regional Water Board actions that modify requirements for compliance, pursuant to California Water Code Section 13383, with this General Permit shall be provided to the Legally Responsible Person, by Regional Water Board or State Water Board staff, in writing and submitted through the current Water Board-approved system²¹ (the Stormwater Multiple Application and Report Tracking System, or SMARTS) within 30 days of the action.

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²¹ Currently the Stormwater Multiple Application and Report Tracking System (SMARTS). Upon the Water Board notifying the permittee in writing that this Water Board-approved system has changed, the permittee shall use the newly specified system.