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## State Water Resources Control Board

February 14, 2025

### TO: CONSTRUCTION STORMWATER DISCHARGERS IN AREAS IDENTIFIED IN AN EMERGENCY PROCLAMATION AS IMPACTED BY WILDFIRES

The State Water Resources Control Board (State Water Board) recognizes the public health and environmental impacts within areas identified in a Governor-declared state of emergency proclamation due to wildfires. This letter provides guidance for regulatory compliance with the 2022 Statewide Construction Stormwater General Permit (Permit)<sup>1</sup> for construction sites negatively impacted by wildfires within areas identified in a state of emergency proclamation. Negative wildfire impacts on construction sites may include higher levels of pollutants in the site's stormwater discharges that are unrelated to construction activities.

#### 1. New Planned Construction Activity

As required by the Permit, an entity or person planning to conduct construction activities is required to apply for and obtain Permit coverage for activities that disturb:

- One acre or more, or
- Less than one acre, and the project is part of a larger common plan of development or sale disturbing one acre or more.

Per Permit Order, Section III.A.3, an entity or person with a public emergency project requiring immediate construction is required to:

- Provide the Regional Water Quality Control Board (Regional Water Board) with a brief description of the emergency construction activity within five days of construction initiation, and
- Submit permit application documents within thirty (30) days through the Stormwater Multiple Application and Report Tracking System (SMARTS).

Per Executive Order N-13-25, the first annual fee (application fee) for new enrollments is suspended until April 20, 2025 for (1) emergency-response activities by federal, state, or local agencies, or individuals or entities performing

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<sup>1</sup> [General Permit for Stormwater Discharges Associated with Construction Activities](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html); [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction/general\\_permit\\_reissuance.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html)

activity at those agencies' direction that are (2) necessary to prevent, contain, or otherwise reduce the impacts of flooding, landslides, mudslides, debris flows, or similar hazards.

Permit coverage is not required for the following activities:

- Cleanup,
- Debris removal activities, or
- Construction activities disturbing less than one acre if the activities are not part of a larger common plan of development or sale disturbing an acre or more.

## **2. Continuation of Existing Regulated Construction Activity**

All active, regulated construction activity including linear underground/overhead projects with active regulatory coverage under the Permit (i.e. active Waste Discharge Identification Number [WDID]) located in wildfire-impacted areas are required to continue complying with Permit requirements per the following guidance:

### **A. Notice of Termination for Inactive Construction Sites**

Dischargers with active Permit coverage planning to discontinue, inactivate, or suspend all construction activities for an undetermined time period must submit a Notice of Termination to terminate Permit coverage. The construction site shall comply with conditions for termination in Permit Order, Section III.H, including compliance with post-construction standards in Section IV.N.

The Discharger shall certify and submit the Notice of Termination for Regional Water Board staff approval through SMARTS.

State Water Board staff prepared [guidance for submitting a Notice of Termination](#).

([https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/smarts/construction/docs/cgp\\_2022\\_not\\_help\\_guide.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/smarts/construction/docs/cgp_2022_not_help_guide.pdf)).

### **B. Visual Observations Not Completed Due to Site Inaccessibility**

Per Permit Attachments D and E, Section III.B.1, visual observations are required during scheduled site business hours and when site access is safe.

Dischargers must provide an explanation in the site's Annual Report if visual observations are not completed based on the above justification. The explanation must include site-specific information about the wildfire impacts.

### **C. Completed Visual Observations and Corrective Actions at Sites Impacted by Wildfires**

Visual observations completed at construction sites that are safe to access shall include:

- An assessment of best management practices, including damage due to the impact of wildfires on the site, by a Qualified SWPPP Practitioner, or their trained delegate, and
- A plan describing the corrective actions, including any necessary changes for the Qualified SWPPP Developer to add to the SWPPP, for replacing and/or repairing damaged best management practices and stabilizing erodible areas.

The Qualified SWPPP Practitioner, or their trained delegate, shall assess the site, and include the following items with their inspection report:

- b) Evaluation and documentation, including photographs, of site conditions documenting:
  - Discharge locations,
  - Soil stabilization<sup>2</sup>,
  - Damaged best management practices or stormwater conveyance structures,
  - Areas on the site with problem areas of erosion.
- c) Location information and description of currently implemented best management practices, and
- d) Schedule for reinstallation, repair and/or addition of best management practices to manage runoff of construction pollutants within wildfire-impacted areas during site restoration.

The Water Board also recommends providing observations of

- Surrounding wildfire-impacted areas with potential to affect the site,
- Areas of high collections of ash deposits, and
- The site prior to a rain even for before-and-after comparison purposes

to document the impacts caused by wildfires.

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<sup>2</sup> See [CGP Review Issue 3](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/training/cgp_review_issue3.pdf) for guidance document on site stabilization, healthy soils, native seeds, and optimal moisture content:  
[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/training/cgp\\_review\\_issue3.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/training/cgp_review_issue3.pdf)

#### **D. Damaged Treatment Best Management Practices**

Dischargers with damaged treatment best management practices must contact the Los Angeles Regional Water Board<sup>3</sup> to discuss the applicability of the emergency bypass provisions in Permit Order, Section VI.K. Dischargers shall update their Active Treatment System Plans or Passive Treatments Plans as applicable.

#### **A. Sampling and Numeric Action Level (NAL) Exceedances**

The Permit requires Risk Level 2 and 3 Projects and Type 2 and 3 Linear Underground/Overhead Project Dischargers to collect, analyze, and report construction stormwater runoff sampling results even if the results are not representative of stormwater runoff due to construction activities.

If Numeric Action Levels are exceeded, a Numeric Action Level Exceedance Report may be required in response to a Regional Board request, or a Discharger may voluntarily submit one as part of an Ad Hoc monitoring report. In either case, if the exceedance is due to wildfire conditions (including post-wildfire conditions) and not representative of normal construction activity site conditions, the report should explain the conditions at the site. Information to submit as part of the Numeric Action Level Exceedance Report may include:

- The presence of onsite burn areas,
- Observations of run-on from surrounding burn areas,
- The presence of ash fallout, and
- Comparisons of historical site sampling results to the sampling results collected post-wildfires.

The Water Boards will continue to assess compliance with Numeric Effluent Limitations (NEL) however Water Code section 13385, subdivision (B)(j) provides relief if an unanticipated, grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight. If you believe the sampling results were impacted by wildfires, include a statement in the Ad Hoc Monitoring report that conditions satisfy Water Code section 13385, subdivision (B)(j).

For further information regarding Permit requirements, please visit the State Water Board [Construction Stormwater Program webpage](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html) ([https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html)).

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<sup>3</sup> The Permit requires 14-day advanced notice to the Regional Water Quality Control Board for a needed treatment bypass. If the discharger is unable notify the Regional Water Board in advance of a bypass, the Discharger shall submit written notification to the Regional Water Quality Control Board within 14 days after the bypass.

For general questions regarding this letter, please contact the State Water Board, Storm Water Help Desk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). For site-specific questions, please contact your local Regional Water Quality Control Board. A list of the Regional Water Board contacts is available at [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/contact.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/contact.html).

Sincerely,



Phillip Crader, Deputy Director  
Division of Water Quality

cc: (via email)

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