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## State Water Resources Control Board

October 20, 2020

### **TO: CONSTRUCTION STORMWATER DISCHARGERS IN AREAS IDENTIFIED IN AN EMERGENCY PROCLAMATION THAT ARE IMPACTED BY WILDFIRES**

The State Water Resources Control Board (State Water Board) recognizes the public health and environmental impacts within counties identified in Governor-declared state of emergency proclamations<sup>1</sup> due to wildfires. This letter provides the following guidance for regulatory compliance with the Statewide Construction Stormwater General Permit (Permit)<sup>2</sup> for construction projects damaged and/or negatively impacted by wildfires within counties identified in a state of emergency proclamation. Negative wildfire impacts on construction sites may include higher levels of pollutant 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 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.

An entity or person with a public emergency project requiring immediate construction is required to:

- Provide the Regional Water Quality Control Board a brief description of the emergency construction activity within five days of construction initiation, and
- Submit permit application documents within thirty (30) days (Permit Section II.B.8) through the Stormwater Multiple Application and Report Tracking System (SMARTS).

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<sup>1</sup> [Current Office of Governor State of Emergency Proclamation](https://www.gov.ca.gov/category/proclamations)

<https://www.gov.ca.gov/category/proclamations>

<sup>2</sup> [General Permit for Stormwater Discharges Associated with Construction Activities;](https://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](https://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

Permit coverage is not required for the following activities:

- Cleanup,
- Debris removal activities, and/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**

Dischargers with active regulatory coverage under the Permit (and an active Permit WDID number) for construction sites located in wildfire-impacted areas identified in a Governor-declared state of emergency proclamation are required to continue complying with Permit requirements per the following guidance:

### **A. Guidance for All Active Regulated Construction Activity including Linear Underground/Overhead Projects**

#### **1. 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 must comply with conditions for termination in Permit Section II.D, including compliance with post-construction standards in Section XIII.

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

Further guidance regarding site erosion controls and compliance with Notice of Termination final stabilization requirements is available on 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)).

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

The Permit requires the Discharger to conduct visual observations during scheduled site business hours, when weather does not pose a safety hazard, and when site access is safe (Permit Attachments A, C, D, and F). The State Water Board emphasizes safety as high priority; therefore, persons should not conduct permit-required monitoring in wildfire-impacted areas:

- With unsafe conditions,
- Closed by a government agency, or
- Have high potential for mudslides during or after a precipitation event.

Dischargers are required to include an explanation in the site's Stormwater Pollution Prevention Plan and Annual Report for all visual observations that are not completed based on the above justification or other justification not

listed. The explanation must include site-specific information including the regulated site location and wildfire impacts to the site(s).

### **3. Visual Observations Completed at Sites Impacted by Wildfires**

The Permit requires visual observations at construction sites that are safe to access. Visual observations must include:

- A condition assessment and damage assessment of the site including damage to best management practices related to wildfires, and
- A plan for replacing and/or repairing damaged best management practices and stabilizing erodible areas.

The Permit requires Dischargers to obtain a Qualified Stormwater Pollution Prevention Plan Developer for updates to the site's Stormwater Pollution Prevention Plan (Section XIV.A), which is to be maintained onsite and electronically reported into SMARTS. Dischargers are strongly encouraged to include the following wildfire impact-related documentation in the site's updated Stormwater Pollution Prevention Plan:

- a) Evaluation and documentation, including photographs, of site conditions documenting:
  - Discharge locations,
  - Soil stabilization<sup>3</sup>,
  - Damaged best management practices or stormwater conveyance structures,
  - Surrounding wildfire-impacted areas, and
  - Areas of high erosion and areas with high collections of ash deposits.
- b) Site observations prior to a rain event for before-and-after comparison purposes,
- 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.

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<sup>3</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)

#### 4. Damaged Treatment Best Management Practices

Dischargers with damaged treatment best management practices must contact their local Regional Water Quality Control Board<sup>4</sup> to discuss the applicability of the emergency bypass provisions in Section IV.L. of the Permit.

### B. Guidance for Risk Level 2 and 3 Projects and Type 2 and 3 Linear Underground/Overhead Projects<sup>5</sup>

#### 1. Sampling and Numeric Action Level (NAL) Exceedances

The Permit requires Dischargers to collect, analyze, and report construction stormwater runoff sampling results even if the results are potentially not representative of stormwater runoff due to construction activities. Sampling is required during the site's scheduled business hours, when weather does not pose a safety hazard, and when site access is safe (Permit Attachments A, D, and E).

Dischargers are required to:

- a. Include an explanation in the site's Stormwater Pollution Prevention Plan and the Annual Report for all sampling events that are not completed, including wildfire-specific information related to missed sampling events.
- b. Electronically certify and submit sampling results into SMARTS as an Ad Hoc monitoring report, including observed issues such as site burn areas, run-on, and ash fallout.
- c. If one or more pollutant sampling results exceed the applicable numeric action level(s), the Discharger is required to immediately implement additional best management practices to:
  - Reduce pollutant levels below the numerical action levels (in stormwater and authorized non-stormwater discharges), or
  - Cease discharge.

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<sup>4</sup> The Permit requires 10-day notice to the Regional Water Quality Control Board for a needed treatment bypass.

<sup>5</sup> The Permit establishes three levels of risk possible for a construction site. The SMARTS system calculates site in two parts: 1) Project Sediment Risk and 2) Receiving Water Risk. [Section J of the Permit Fact Sheet](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_factsheet.pdf) describes risk determination:  
[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/constpermits/wqo\\_2009\\_0009\\_factsheet.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/wqo_2009_0009_factsheet.pdf)

- d. Update the site's Stormwater Pollution Prevention Plan to include the additional best management practices.

The Discharger may voluntarily submit a Numeric Action Level Exceedance Report as part of an Ad Hoc monitoring report in SMARTS to identify stormwater samples impacted by wildfire conditions (including post-wildfire conditions) and not representative of site conditions. Additional voluntary information to include in the Numeric Action Level Exceedance Report includes:

- Onsite burn areas,
- Run-on from surrounding burn areas,
- Ash fallout, and
- Comparisons of historical site sampling results to the sampling results collected post-wildfires.

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)).

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 staff at:

North Coast Region: [r1\\_stormwater@waterboards.ca.gov](mailto:r1_stormwater@waterboards.ca.gov) or (707) 576-2220  
San Francisco Bay Region: [r2stormwater@waterboards.ca.gov](mailto:r2stormwater@waterboards.ca.gov) or (510) 622-2402  
Central Coast Region: [r3\\_stormwater@waterboards.ca.gov](mailto:r3_stormwater@waterboards.ca.gov) or (805) 549-3147  
Los Angeles Region: [r4\\_stormwater@waterboards.ca.gov](mailto:r4_stormwater@waterboards.ca.gov) or (213) 576-6600  
Central Valley Region:

- Fresno Office: [r5f\\_stormwater@waterboards.ca.gov](mailto:r5f_stormwater@waterboards.ca.gov) or (559) 445-5116
- Redding Office: [r5r\\_stormwater@waterboards.ca.gov](mailto:r5r_stormwater@waterboards.ca.gov) or (530) 224-4845
- Sacramento Office: [r5s\\_stormwater@waterboards.ca.gov](mailto:r5s_stormwater@waterboards.ca.gov) or (916) 464-3291

Lahontan Region:

- South Lake Tahoe Office: [r6a\\_stormwater@waterboards.ca.gov](mailto:r6a_stormwater@waterboards.ca.gov) or (530) 542-5400
- Victorville Office: [r6b\\_stormwater@waterboards.ca.gov](mailto:r6b_stormwater@waterboards.ca.gov) or (760) 241-6583

Colorado River Region: [r7\\_stormwater@waterboards.ca.gov](mailto:r7_stormwater@waterboards.ca.gov) or (760) 346-7491

Santa Ana Region: [r8\\_stormwater@waterboards.ca.gov](mailto:r8_stormwater@waterboards.ca.gov) or (951) 782-4130

San Diego Region: [r9\\_stormwater@waterboards.ca.gov](mailto:r9_stormwater@waterboards.ca.gov) or (619) 516-1990

Sincerely,



Karen Mogus, Deputy Director  
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cc: (via email)

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