



“Change is the law of life. And those who look only to the past or present are certain to miss the future.”

John F. Kennedy

GET THE LATEST VERSION OF THE PROPOSED PERMIT:

The Water Board has posted a new version of the proposed permit on its website dated July 22, 2022. You can access it by clicking [here](#). They have provided both a Microsoft Word copy with track changes shown and a “clean” pdf copy. As a result of the public comment periods and the public workshops there have been some revisions made to the proposed Construction General Permit (CGP). Another public workshop was held by Water Board staff on August 9 which recapped some of the changes and responses to public comments. You can access the Water Board’s presentation by clicking [here](#). Although we have dedicated now five newsletters to summarizing the changes, there are many more revised permit requirements that we were not able to highlight, so we recommend that you carefully read the newest version of the proposed permit to identify changes that may affect your current and upcoming projects.

NEW TIMELINE:

Some of the dates have changed when it comes to implementing the new permit. As previously mentioned, the hearing date is slated for September 8, 2022 with the proposed effective date of September 1, 2023 (assuming the permit is adopted). Those applying for

As we have seen in the last four **Monthly Dirt** editions, **change is coming** quickly as we approach the soon adoption of the [Proposed Statewide Construction Storm Water General Permit Reissuance](#). In fact, **September 8, 2022** is the date of the Water Board’s public hearing for the consideration of the adoption of the proposed permit. It will not be held in person, but you can watch and participate in the hearing at the [CalEPA Video Broadcast Link](#). To re-cap the new proposed permit, we wanted to provide you with some last minute updates and we have attached the last four Monthly Dirt editions.

permit coverage on or after September 1, 2023 will be subject to the new CGP. However, existing projects with permit coverage may continue under the old permit and its conditions for **two years** (note the change—previously it was three years) until August 31, 2025. Consequently, we predict there will be a rush on filing Notices of Intent (NOIs) prior to this time next year.

PROGRAMMATIC PERMITTING:

A new permitting option becomes available for broadband internet projects that include multiple non-contiguous construction projects which typically would be considered as separate linear underground / overhead utility projects (LUPs). Under the old permit, each one would need to be covered by a separate permit (WDID) number. In compliance with

the [Governor’s Executive Order N-73-20](#), these projects may submit one NOI requesting statewide programmatic CGP coverage for the entire group of project sites. This type of project does not need to wait until September 1, 2023 to take advantage of this new provision. On or after 100 days of the permit’s adoption (December 10, 2022), they can apply for coverage under the old or new permit.

RECAP OF THE AUGUST 9 WORKSHOP:

As with all of the workshops, the August 9th event was packed with information and questions about the new permit. Using the link previously provided you can access the Water Board’s PowerPoint presentation and, soon, there will be a video recording available of the workshop. But, here are some of the covered topics that stood out to us:

NONAs:

In the old permit, if there was no-way, no-how water was going to discharge from the construction project to a receiving water, in order to be exempted from needing permit coverage, a discharger had to provide proof to the Regional Water Quality Control Board. If the Regional Board staff agreed with the proof,

Proposed Regulatory Transition Period for Existing Projects

- Existing projects are projects with permit coverage under the 2009 permit prior to the effective date of the reissued permit
- Existing projects may continue coverage under the existing 2009 permit up to 2 years after the effective date
 - The 2009 permit remains in effect for enforcement purposes and annual reporting requirements
- Permit Registration Documents submitted on or after the permit effective date are subject to reissued permit

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you would receive an email or letter exempting you from needing permit coverage. In the new proposed permit, this process is formalized as part of a Notice of Non-Applicability (NONA), which is similar to the process used in the Industrial General Permit. In the new permit, a discharger may file a NONA on SMARTS to show that the site is not hydrologically connected to waters of the United States. In order to do so, a California licensed professional engineer or geologist with hydrological expertise must prepare a site-specific No Discharge Technical Report. Once approved, NONA projects will be issued a WDID number.

CHANGE-OF-INFORMATION:

The Water Board brought some more definition and clarification on how to reduce acreage for permitted projects. This is particularly pertinent to subdivision projects where homes are sold off to individual homeowners. In the past, it was always a question as to how to handle individual residential lots that are sold with unfinished landscaping. Because they are part of a larger common plan of development, does the new homeowner need to file for CGP coverage until the lot is landscaped? The permit now allows these lots to be removed from the permit via a Change-of-Information (COI) if:

- The homes are sold to individual homeowners;
- Each lot has less than an acre of soil disturbance; and
- Temporary stabilization BMPs have been installed and there is a contract in place to maintain them until the lot is fully stabilized / landscaped.

INACTIVE SITES:

Another dilemma under the old permit was what to do with projects that become inactive. The options were to either stay in the permit and keep doing all of the inspections, monitoring, and reporting requirements; or try to file for a Notice of Termination (NOT) and resubmit a NOI prior to the project needing to recommence activities. Now, there's a third option. If construction activities will be suspended for 30 days or more, a COI may be submitted with a SWPPP amendment to identify the period of inactivity. The SWPPP amendment must include:

- A revised site map depicting the current status of construction; and
- Photographs showing the temporary stabilization BMPs that were implemented for the period of inactivity.

Upon approval of the COI by the Regional Water Board, all sampling may be suspended and monitoring and inspections may be reduced to the following:

- Within 14 days of the Regional Water Board approval, a QSD must visit the inactive site to verify that the SWPPP is

being implemented.

- A QSP or trained delegate must visually inspect the inactive project at least once every calendar month and prior to any weather pattern that is forecasted to have a 50% or greater chance of 0.5 inches or more of precipitation within a 24-hour period. Of course inspections are not required during dangerous weather conditions or when access to the site is infeasible or unsafe (e.g., due to snow accumulations or closed roads).

Prior to the time for resuming construction activities, the discharger will need to submit another COI on SMARTS along with an amended SWPPP. Upon approval of the COI by the Regional Board, construction work may resume.

NEW NOT REQUIREMENTS:

Have you ever been frustrated with it taking forever to get a NOT accepted? Well, good news! Built into the proposed permit is a clause that states a NOT will be automatically approved if the Regional Water Board does not deny, return, or accept the NOT for review within 30 days. However, as we have been experiencing in the last several years, the NOT documentation requirements have been increasing. Some of this is due to the enforcement of language that has been in the permit all along, but some will be due to new or enhanced permit requirements. NOTs will now require:

- A QSP or QSD to conduct and document a final NOT inspection.
- A final site map that includes:
 - ☑ Project boundaries and adjacent lands with labeled key features, such as roadways and waterbodies;
 - ☑ Developed drainage basin boundaries and discharge location points;
 - ☑ Site entrances and exits, lot boundaries, roads, structures, and features related to the project that may be used as a reference;
 - ☑ Specific permanent erosion control BMPs, post-construction BMPs, and low impact development features;
 - ☑ Individual erosion control BMPs (including final landscaping) identified using hatch patterns, symbols, or shading unique to each BMP;
 - ☑ Location and orientation of all photos used to document final site conditions and demonstrate compliance with post-construction requirements of this General Permit; and,
 - ☑ If applicable, areas of the site being transferred to new ownership, and the name and contact information of

the owner.

- Photos demonstrating final stabilization and the implementation of applicable post-construction BMPs and low impact development.
- Signed O&M agreement for the post-construction measures.
- Documentation of installation of measures used for credits in the Water Balance Calculator (e.g., trees, bioretention areas, and soil quality).
- Proof of permit coverage by the new owner for NOTs due to ownership transfers.

IT'S NOT TOO LATE TO COMMENT:

But your window of opportunity is closing! The **September 8** public hearing is your last chance to comment on the proposed permit before it is adopted. Click [here](#) to view the Water Board's Public Notice for instructions on how to give written or oral comments. Change is coming! And is almost here! Before it happens, prepare yourself with the information needed to navigate the new permit requirements.

Want to Talk with the Permit Writer?

As a part of the 2022 Storm Water Awareness Week, WGR's senior editor of The Monthly Dirt, John Teravskis, will be interviewing the Water Board's CGP lead staff person, Brandon Roosenboom. Join them for this "talk radio" style program and chime in with your comments and questions.



Monday, September 26, 2022 at 11:00 AM

[REGISTER HERE](#)

Please contact us if you have any questions ...

The Monthly Dirt

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DEADLINE.

august 26th

CALLING ALL WORKSHOP HOSTS

**if you're planning on hosting a 2022 Storm Water Awareness Week workshop,
be sure to register it by august 26th on stormwaterawareness.org**



where
the river
meets
the sea 

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people are lining up
for these deals....

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