

LAST CHANCE

The Monthly Dirt

A monthly newsletter on the California Construction General Permit

**Act Now!
Waiting
Could Cost
You 10-30%
More**

On September 1, 2023, a new Construction General Permit will go into effect. For more than a year, **The Monthly Dirt** has been writing about how the new permit will change inspections, monitoring, BMPs, and other permit-requirements. But how will the new permit effect the bottom line of your construction project? For this edition of **The Monthly Dirt**, we will identify several reasons why we anticipate cost increases and we will explain why you may want to hurry to permit upcoming projects and obtain a WDID number before August 31, 2023.

The Transition:

The State Water Resources Control Board adopted Order 2022-0057-DWQ on September 8, 2022 which goes into effect on September 1, 2023. The new 2022 Construction General Permit (CGP) will be applicable to any projects permitted on or after the permit's effective date. But existing projects, and any projects permitted before September 1 of this year, will continue to be covered by the old Construction General Permit (Order 2009-0009-DWQ) until, whichever occurs first, obtaining approval of a submitted Notice of Termination (NOT) or September 1, 2025. On that date, the Water Board will administratively terminate all projects covered by the 2009 CGP and will require on-going projects to file a Notice of Intent (NOI) under the 2022 CGP and upload new Permit Registration Documents

(PRDs) including an amended SWPPP on SMARTS. September 1, 2023 is quickly approaching! Which means the window of opportunity to be covered under the 2009 CGP will soon be closing. But that also means projects which will be starting in the next few weeks or months have a choice about which permit to be covered under. As with most things in business, the decision regarding which permit to be under will probably boil down to a financial decision.

The Economics:

The Fact Sheet in the 2022 CGP (pages 20—23) contains a discussion of the costs associated with the new permit requirements. The Water Board identified cost increases associated with new aspects of the permit such as passive treatment, training, and Total Maximum Daily Load (TMDL) requirements. It also identified potential cost savings realized through the removal of Rain Event Action Plans (REAPs), reduced monitoring frequency, streamlining of permits for Linear Underground and Overhead Projects (LUPs) and through the new option for inactive projects. Although some numbers are presented in the Fact Sheet for both potential cost increases and decreases, no overall side-by-side cost estimate was provided for an example project under both permits. And this is somewhat understandable, because as the CGP's Fact Sheet states,

“The State Water Board recognizes that there is high variability in cost across all construction projects. Cost variability relates to many factors including: 1) short term vs. long term projects, 2) risk level of the project, and 3) construction season/schedule.”

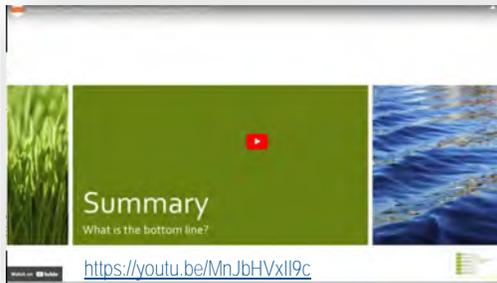
After all, determining compliance costs under the CGP can be as difficult as predicting the weather. But there are some clues provided in the Fact Sheet that suggest the numbers may be a little unrealistic to the current marketplace. For example, the Fact Sheet states, *“These costs [are] based on an hourly QSD billing rate of \$80 to \$120 ...”*, which our QSD Monthly Dirt readers will probably recognize as being only a third to a half of their going hourly rates. As we reported in our April 2023 edition, of the approximate 6,600 registered QSDs, about half are self-certified through SMARTS; meaning that they are primarily professional engineers and geologists. This group would typically have a much higher average hourly billing rate. Another clue about the Fact Sheet's cost analysis being incomplete is that it does not directly address the increased costs associated with the redefining of Numeric Action Level (NAL) exceedances and the resulting requirements for a QSP and QSD to visit the project within 14 days of the NAL exceedance. This change in how exceedances are defined will result in a significant increase in the occurrences of exceedances. The Fact Sheet suggests a possible cost savings through the revised QSP



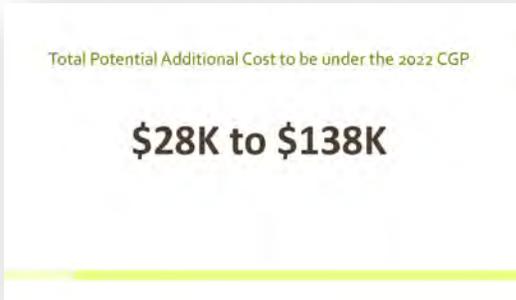
Watch an interview with Brandon Roosenboom who is the lead person for the CGP with the State Water Board, where he explains the permit transition period. <https://www.youtube.com/watch?v=rYr5LWRTHdE&t=3s>

roles, but we actually see the opposite occurring.

The Monthly Dirt did a side-by-side analysis of the monitoring and compliance programs under the two permits. You can watch a video summary of the cost comparisons by clicking on the link below.



The Water Board was correct in stating in the Fact Sheet that it is difficult to estimate the costs due to the large amount of variability between construction projects. But, in trying to compare two similar projects under each permit, we found the potential increase in permit compliance cost to range between \$28K to \$138K under the 2022 CGP. We estimate that to be approximately a 10 to 30% increase in the overall storm water compliance program cost for most projects. However, we did identify one type of project that may actually have a price decrease under the 2022 CGP—LUP Type 1 projects. As you may be aware, LUP projects had to perform daily inspections under the 2009 CGP. Under the 2022 CGP, their inspection requirements were changed to match those of traditional projects where they need to perform weekly and storm-event inspections. Because LUP Type 1 do not typically need to sample and should, therefore, not have NAL exceedances, they will not incur the additional QSP and QSD inspection charges.



Act Now! Final Chance!

With the rapid approach of September 1, there are only weeks left to take advantage of the opportunity to get coverage under the 2009 CGP. Time is of the essence to obtain permit coverage because it will be necessary to submit a SWPPP as one of the PRDs on SMARTS.

Many SWPPP writers normally have a backlog of work, but with the looming deadline we are

expecting the workload to increase. The following are responses to some of the questions we have been receiving:

Who should submit a NOI before Sept. 1?

We mentioned that for one small group of projects, LUP Type 1, it may be better to be under the new 2022 CGP. But, for all other LUP types and traditional risk level projects, they should consider submitting the NOI and PRDs on SMARTS before September 1, 2023, if construction will commence within the next twelve months. It is not uncommon for a WDID (permit) number to be obtained months before the project actually starts. Sometimes this is intentional to allow enough time for other aspects of project permitting and planning. Other times, because of project delays, it is unintentional. QSP inspections are not needed until the first occurrence of soil disturbance, so other than the actual permit fees, you will not be accruing extra CGP-related expenses by maintaining an idle permit.

Another group of projects that should consider taking action before September 1 are those that may be increasing in size because of new phases or recent acquisitions of adjacent properties. The 2022 CGP states:

“A discharger continuing regulatory coverage under the previous permit cannot increase a project’s disturbed acreage through the Change of Information [COI] process, on or after the effective date of this General Permit; the discharger must submit a Notice of Intent for coverage under this General Permit for the increase in disturbed acreage.”

This means if a 10-acre subdivision is going to receive 5 more acres of home lots from another developer, if the COI is submitted on or after September 1, 2023, the original 10 acres will continue to be permitted under the 2009 CGP, while the 5 additional acres will be permitted under the 2022 CGP. This certainly can cause some confusion for project staff to have one project covered by two different permits. If you know that you will be adding acreage to a project in the near future, it would be expedient to complete that process and the COI process on SMARTS before September 1 of this year.

What happens if the project is not completed by September 1, 2025?

Many projects, even those obtaining permit coverage in the next few weeks, will most likely be able to complete all construction activities and obtain final stabilization before September 1, 2025. But, there will certainly be projects with a longer duration that will need to go beyond that date. As we approach the September 1, 2025 date, we can expect the Water Board to be reaching out to 2009 CGP

permitted projects to notify them of the need to submit a NOI and a SWPPP amendment to comply with the 2022 CGP. These projects will need to have coverage under the 2022 CGP for the remainder of construction, but at least they were under the less expensive 2009 permit for nearly two years.

How long does it take to get permit coverage?

Typically, once the NOI has been completed and certified on SMARTS (including the upload of the SWPPP) and the Water Board has received the initial annual permit fee payment, a WDID is normally issued within 2–4 business days. But don’t wait until August 27 to submit your PRDs! The Water Board has said that the discharger must obtain permit coverage (a WDID number) before September 1, 2023 to be covered by the 2009 CGP. The Water Board is pretty efficient at processing the permit applications, but it would be wise to count on a bit more back log than usual since you may not be the only one trying to take advantage of this final chance to be covered under 2009 CGP. We suggest submitting PRDs and permit fee payments no later than the middle of August and possibly earlier to allow time for potential problems with the submittal. Equally important, we recommend you do not delay in authorizing your QSD to prepare the SWPPP or amend it for projects having an increase in acreage. Even under normal conditions, QSDs can have a 2–3 week back log.

What do I need to do if I already have permit coverage?

Sit back! Relax! As a project, you are good and there’s nothing extra to do until we start to approach the September 1, 2025 date. However, existing QSPs and QSDs will need to take a supplemental online course and pass an exam on the new 2022 CGP requirements. It is anticipated that the Water Board and Construction General Permit Training Team will release the online training later this summer. Keep a watchful eye on future Monthly Dirt newsletters for more information on this soon to be released training.

Please contact us if you have any questions ...

The Monthly Dirt

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Have an upcoming project you want to get permitted under the 2009 Permit?

Our team of QSDs and QSPs are here to help. Don't wait too long if you're want to get your project permitted under the 2009 Construction General Permit. It could save you 10-30% in compliance program costs. Time is running out, so be sure to allow time to get those SWPPPs written and submitted prior to September 1st when the 2022 CGP takes effect.

Contact us for a quote or to consult with our team of CGP specialists.

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providing QSP services & oversight for southern, central, and northern California.



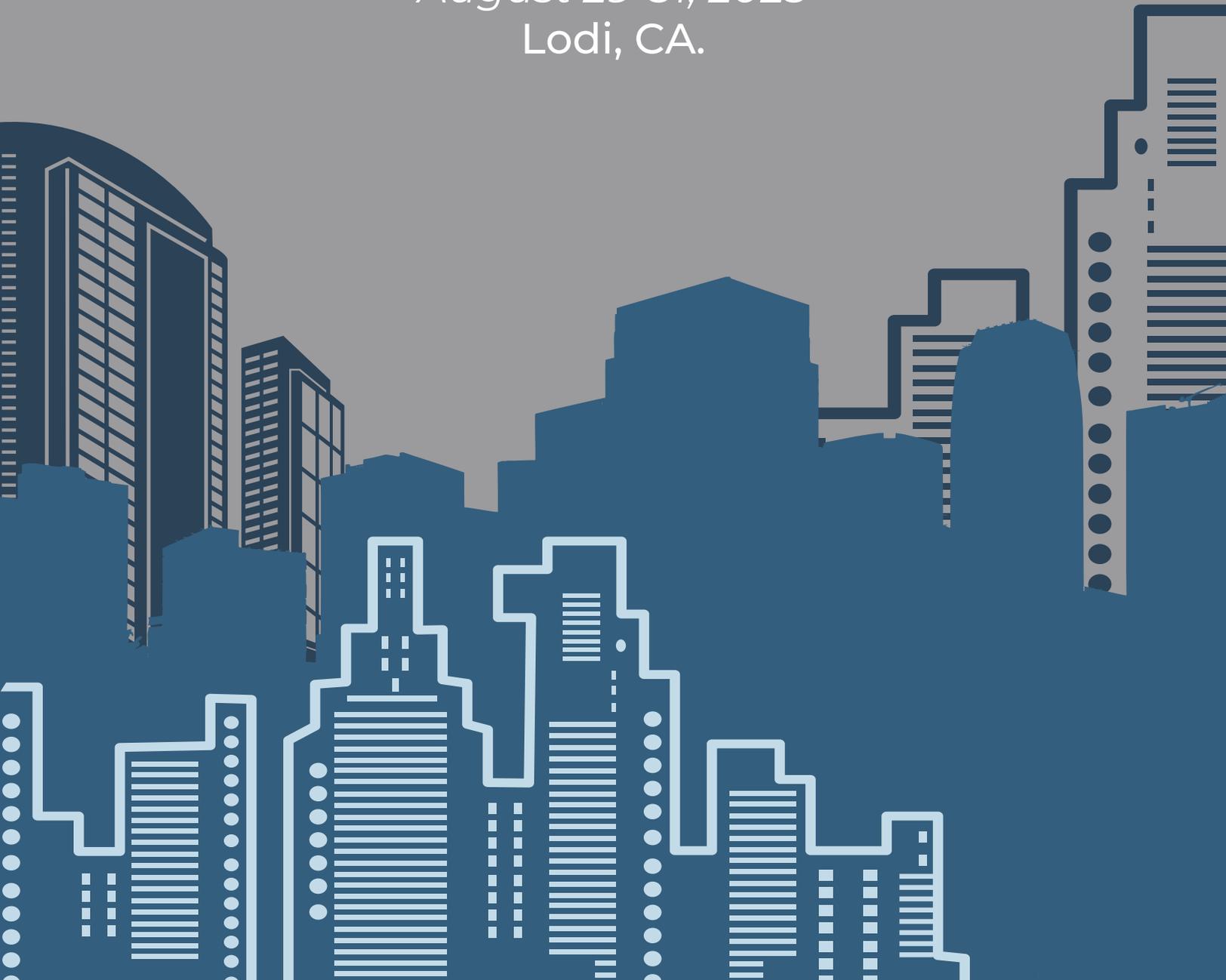
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FORGE

GOT SWPPP?

In-Person QSP/QSD Training
August 29-31, 2023
Lodi, CA.



STORM WATER AWARENESS WEEK PRESENTS

THE

Voices

OF STORM WATER

SEPTEMBER 25-29, 2023



5 REASONS WHY YOU SHOULD HOST A WORKSHOP

01

GIVE BACK TO THE COMMUNITY

- Instead of making storm water a cut throat industry, take a moment of your time to give back to the community. We've actually seen a lot of competitors become collaborators because of this event.

02

PROFESSIONAL DEVELOPMENT HOURS

- In preparing and presenting a workshop during Storm Water Awareness Week you are actually getting in the professional development continuing education requirements you need to meet!

03

NETWORKING OPPORTUNITY

- Ever been to a storm water conference where you are running into people and trying to network with people who are in your same position? Storm Water Awareness Week is catered to the people who need the education and not just other vendors and consultants.

04

INVEST IN THE FUTURE

- By hosting a Storm Water Awareness Week workshop you are investing in the future of storm water. Providing education to those who are actively involved in keeping water from their sites clean. Time well spent in our opinion.

05

IT'S FUN

- Who says education has to be boring? Get as creative as you want with your presentation! Take a field trip. Make a video. Do experiments. Try out products. Install BMPs. The sky is the limit.



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people are lining up
for these deals....

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