



Engineering & Utility Contractors Association
**REGULATORY
 BULLETIN**



Taking Action... Getting Results!

June 8, 2009

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CONSTRUCTION PERMIT PROPOSAL POLLUTED WITH PROBLEMS

ROUTE TO:

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WHAT’S GOING ON?

The State Water Resources Control Board has been working for over two years now to revise its Construction General Permit (CGP). Some key provisions of this proposed permit include the following:

APPLICABILITY:

- Affects all construction sites that disturb 1 acre or more of land surface (no change).
- Now includes all LINEAR construction projects that disturb 1 acre or more acres (the 2003 Linear Permit will be rescinded upon this permit adoption).
- Affects pending Caltrans permit revisions

The CGP defines the construction site as the area where construction occurs as well as areas set aside for vehicle parking, and backfill and borrow areas. Therefore, all of these areas must be included in the applicability calculation of 1 or more acres. Once a project is determined to fall under this permit, the risk level is determined.

RISK LEVELS:

All construction projects must undergo a risk assessment using an electronic spreadsheet developed by the State Board. Construction projects will be categorized into one of three risk levels prior to the (Storm Water Pollution Prevention Plan) SWPPP preparation. Risk Level is based on sediment transport risk and receiving water quality. Each Risk Level has progressively more stringent requirements to implement Best Management Practices (BMP), measure, monitor and control water run-off. Factors determining Risk Levels include proximity to receiving waters, size of project, soil type and rainfall erosion potential.

Existing projects will be “grandfathered in” under Risk Level I once the CGP is adopted (expected in August), and projects commencing after that will likely be assessed at Risk Level II or III, resulting in the additional requirements.

NUMERIC ACTION LEVELS (NAL’s):

For Risk Level II and III projects, a Numeric Action Level (NAL) is required to determine if the SWPPP is working. Runoff from the project is to be collected and tested for pH and turbidity, and if the run-off measured exceeds the permissible levels, the site operator must take action to improve BMP performance and reduce potential discharge of pollutants.

NUMERIC EFFLUENT LIMITS (NEL'S)

Risk Level III projects or projects using advanced sediment treatment systems (ATS) require sampling to determine if the project meets the Numeric Effluent Limits, triggered by a rainfall event.

MONITORING:

All projects are required to monitor run-off. The higher the Risk Level, the more monitoring actions are required, from visual monitoring at the project site for Risk Level I projects, to bioassessment in receiving water for Risk Level III projects.

POST CONSTRUCTION STREAM PROTECTION CONTROLS:

The permit proposal also includes a runoff reduction requirement so that post-construction run-off equals pre-construction hydrology for certain areas. This also includes implementing post-construction BMP's to reduce discharges that are "reasonably foreseeable".

TRAINING REQUIREMENTS:

New training requirements will become effective with the permit's adoption, creating new requirements for a Qualified SWPPP Developer (QSD), and a Qualified SWPPP Practitioner (QSP). Both of these positions require specified training, certification, and licenses in order to perform the duties specified in the permit.

ENFORCEMENT/OVERSIGHT:

The proposed permit requires the electronic submittal of the Notice of Intent, Risk Assessment, Site Map, SWPPP, and certification. In addition, each discharger must submit an annual report of compliance electronically. The proposal allows Regional Water Quality Boards to require SWPPP revisions and change of BMP's after the State Water Resources Control Board has received the owner/operator's SWPPP. The Regional Board also has the authority to revoke coverage under the permit if they determine that the SWPPP, BMPs, implementation or Risk Calculation are insufficient. More significant are the fines, which can be levied at \$27,000 per day, per violation.

WHAT EUCA IS DOING:

We are actively monitoring and aggressively advocating as this permit is continuously evolving. EUCA has submitted comments prior to the latest April revision of the permit, and will be doing so again prior to the Board's anticipated decision in August.

WHAT YOU CAN DO:

Read the permit proposal for yourself at

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml, and provide comments to the State Water Resources Control Board on or before June 17th by sending them to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Comment letters may be submitted by email to commentletters@waterboards.ca.gov (if less than 15 megabytes in total size) or by fax at (916) 341-5620. For email submittals, please indicate in the subject line: "Comment Letter - Draft Construction Permit".