



# California Regional Water Quality Control Board Lahontan Region

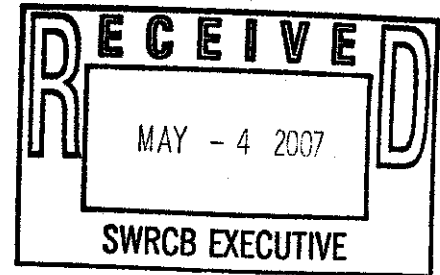


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**Construction General  
Permit – Stormwater  
Deadline: 5/4/07 5pm**

**FROM:** Robert Erlich  
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Stormwater Program Manager  
**LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD**

**DATE:** May 4, 2006

**SUBJECT:** COMMENTS ON PRELIMINARY DRAFT GENERAL PERMIT FOR  
DISCHARGES OF STORM WATER ASSOCIATED WITH CONSTRUCTION  
ACTIVITIES

Thank you for the opportunity to review the preliminary draft general permit. We appreciate the consideration given to our comments as the Stormwater Unit has developed this permit. The preliminary permit includes many new elements which will help reduce pollutant discharges from construction sites. We support the efforts to incorporate the concerns about hydromodification and long-term operations of permanent BMPs into the construction permit.

In this review, the text from the preliminary draft permit is in normal font. Comments on specific sections are made in italics. Suggestions for changed language are in italics and underlined.

## **FACT SHEET**

### **C. Construction Activities not covered by this General Permit**

Page 14. - Lake Tahoe Hydrologic Unit.

*"Owners of construction projects in this watershed..." Sentence is repeated.*

*"Construction projects within the Lahontan region must comply with the Lahontan Region Project Guideline for Erosion Control (R6T-2005-0007 Section)...."*

*California Environmental Protection Agency*

Replace with "Construction projects disturbing one or more acres of land within the Lake Tahoe Hydrologic Unit must comply with the Regional Board General Construction Permit (Board Order R6T-2005-0007)....

Note: There are Lahontan Region Project Guidelines for Erosion Control found in the Basin Plan (Section 4.8) or as attachments to other Regional Board permits, e.g., Attachment G in [http://www.waterboards.ca.gov/lahontan/Adopted\\_Orders/2003/R6T-2003-0004\\_Small\\_Const\\_WDR.pdf](http://www.waterboards.ca.gov/lahontan/Adopted_Orders/2003/R6T-2003-0004_Small_Const_WDR.pdf) The Caltrans Statewide Permit Section L.5 also includes provisions to comply with other specific Regional Board Erosion Control Guidelines. If possible, the new State Board Construction permit should state that the Regional Board erosion control guidelines apply. However, to be enforceable, these guidelines should be mentioned in the new state board permit, rather than in this section of the Fact Sheet.

Page 15. - Caltrans projects. Comment: Is this language (indicating the General Permit does not apply to Caltrans projects) consistent with Caltrans permit section H.2 or proposed language in the new Caltrans permit?

From 99-06-DWQ Section H.2 "The Construction Management Program shall be in compliance with requirements of the NPDES General Permit for Construction Activities (Construction General Permit) not including NOI filing."

## **GENERAL PERMIT FOR DISCHARGES OF STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

### **I. Findings**

Page 4

12. "...but small construction projects with an "R Value" less than 5 during the clearing and mass grading phase of their project may be considered "low risk" and are subject to fewer requirements in the General Permit."

*Problem noted: This erroneously suggests that if the R Value is less than 5, the project would be subject to fewer requirements. Attachment F-Sediment Transport Risk Worksheet has several other factors used to determine risk categories. Small projects with R Value less than 5 may still be in medium or high risk groups.*

**Suggested Change:** "...but, small construction projects with an "R Value" less than 5 during the clearing and mass grading phase of their project may be considered "low risk" and, depending on other aspects of the project, may be subject to fewer requirements in the General Permit."

Page 7

26. Table 1 – Summary of Risk Categories and Required Elements

*Problem noted: Table 1 shows that a SWPPP is not required for Low Risk Categories. However, elsewhere in the permit (Section VI.4, Attachment C, Attachment D), applicants are directed to submit a SWPPP as part of required Permit Registration Documents (PRDs). Permit language should provide clearer guidance on when to determine risk categories, and which documents should be submitted for low risk projects.*

Page 8

32. "This General Permit requires all discharges to electronically submit..."

**Suggested Change:** "This General Permit requires all dischargers to electronically submit..."

33.c "The following discharges are not required to obtain coverage under this General Permit: ... c. Construction projects in the Lake Tahoe Hydrologic Unit<sup>6</sup>;

Footnote 6: Discharges from construction projects in the Lake Tahoe Hydrologic Unit may be required to obtain coverage under the regional permit ... Counties."

**Suggested Change:** "Discharges from construction projects resulting in one or more acres of land disturbance in the Lake Tahoe Hydrologic Unit require coverage under the regional permit ... Counties. Contact the Lahontan Water Board to determine whether other permits are required for construction projects resulting in less than one acre of land disturbance in the Lake Tahoe Hydrologic Unit."

## **II. Conditions for Permit Coverage**

### **A. Obtaining Permit Coverage**

Page 9

Section II.A.1. "All dischargers requiring coverage ... provisions in Section B.VII, below." Provisions are found in Section VII, not Section B. VII.

**Suggested Change:** "All dischargers requiring coverage ... provisions in Section VII, below."

### **B. Revising Permit Coverage for Change of Acreage**

Page 10

Section II.B.3.a-c "If the portion of the site completed is not stabilized, the current discharger is required to: .... new discharger(s)..."

*If a portion of the project is completed, it should be stabilized. Section II.B.3 should apply only to portions sold or otherwise transferred to new ownership.*

**Suggested Change:** "If the portion of the site sold is not stabilized, the current discharger is required to: .... new discharger(s)..."

**Problem noted:** *If discharger sells < 1 acre portions which are not stabilized, is the discharger still required to notify new dischargers of requirements to obtain coverage, even though the permit applies only for projects one acre or larger? Does the permit allow < 1 acre sections to be sold by the developer without requiring stabilization?*

## VII. Provisions

Page 10

Section VI.1.a. "...Permit coverage shall not commence until Permit Application fee is received and the application is processed by the State Water Board."

**Clarification requested:** *How are dischargers notified that permit coverage has commenced, i.e., letter from State Water Board, e-mail to applicant, posting on website?*

Page 13

Section VI.4. " For existing dischargers, permit coverage ... shall commence on the date the electronic PRDs are administratively accepted by the State Water Board or Regional Water Boards. ... For new dischargers, permit coverage ... shall commence on the date the electronic PRDs are administratively accepted by the State Water Board and/or Regional Water Boards."

**Clarification requested:** *Are the roles of State Water Board and Regional Water Boards in administratively accepting PRDs defined elsewhere in the permit, or are we awaiting more details about the public and agency review process?*

Page 14

Section 8. and 8.d "... Discharges of non-storm water are authorized only if they comply with all of the following: ... BMPS are specifically included in the SWPPP to: ..."

**Suggested addition:** 8.d.iii *Dechlorinate discharges of potable water, if needed to prevent toxicity in receiving waters.*

## VIII. Project Planning Requirements

### A. Risk Category

Page 15. "The Discharger shall determine a risk category ... using the methodology in Attachment F ... prior to construction activities commencing. The risk category shall be noted on the NOI form and/or SWPPP Checklist."

*Problem noted: The discharger should determine risk category prior to submitting an NOI/SWPPP or other PRDs. If the risk category is low, waits until prior to commencing construction activities to determine risk category,*

**Suggested language:** *"The Discharger shall determine a risk category ... using the methodology in Attachment F ... prior to filing PRDs. The risk category shall be noted on the NOI form and/or SWPPP Checklist."*

## IX. Project Implementation Requirements

### A. Compliance Determination for Numerical Effluent Limitations (NELs)

Page 17

2. "the pollutant source(s) ... have been identified...; additional BMPs... have been identified...; and revised the SWPPP, as soon as possible..."

*Problem noted: Last phrase needs a subject.*

**Suggested language:** "... and the SWPPP has been revised, as soon as possible..."

### **G. Active Treatment System**

Page 19

1. "... or comply with source control procedures described in Section VIII.G."

*Problem noted: Section numbers have changed.*

**Suggested language:** "...source control procedures described in Section IX.H."

### **H. Source Control Option (for sites with fine soils)**

Page 20

1.c "Provide 100 percent soil cover for all areas of inactive construction through the entire time of construction, on a year-round basis."

1.d "Provide appropriate perimeter control at all appropriate locations along the site perimeter and at all inlets to the storm drain system at all times during the rainy season."

*Problem noted: Source control option should also indicate that linear sediment controls (already mentioned in Section IX.E.4) are required for long sheet flow lengths.*

**Suggested change:** "Provide appropriate linear and perimeter control at all appropriate locations within and along the site perimeter and at all inlets to the storm drain system at all times during the rainy season."

*Problem noted: This section should discuss additional requirements for stabilizing active construction areas for dischargers using the source control option. Section IX.C.3 already noted that the discharger shall stabilize all active disturbed areas regardless of time of year from all erosive forces, including rainfall, non-storm water runoff, and wind.*

**Suggested change:** Add a line to further describe how the requirement to "stabilize all active disturbed areas" applies to the fine soil sites.

### **K. New Development and Re-development Storm Water Performance Standards**

Page 24-25

2. "... the project shall preserve the post-construction drainage divides ... and ensure that post-project time of concentration is equal or greater than post-project time of concentration."

3. "...and ensuring that post-project time of concentration is equal or greater than post-project time of concentration."

*Problems noted: should refer to pre-construction. For some construction projects which involve restoration or water quality retrofit construction, there may be water quality benefits from transferring water across a pre-construction drainage divide. For example, where the watersheds have already been impacted, and there are few opportunities to treat stormwater runoff in one watershed, it may be beneficial for water quality to transfer stormwater runoff into across a drainage divide into an area where it can be*

*infiltrated. This scenario applies to Caltrans or other public or municipal permittee projects in Region 6. The construction permit should not have language prohibiting moving water across drainage divides if the project would improve water quality.*

**Suggested change:** 2. *“... the project shall preserve the pre-construction drainage divides ... and ensure that post-project time of concentration is equal or greater than pre-project time of concentration. The requirement to preserve the pre-construction drainage divides does not apply to projects designed to improve water quality by transferring stormwater runoff across the drainage divide.”*

*Problem noted: should refer to pre-construction.*

3. *“...and ensuring that post-project time of concentration is equal or greater than pre-project time of concentration.”*

## **L. Inspection, Maintenance and Repair**

Page 25

4. *“... or in an alternative format that includes the information described in Project Implementation Requirement L.”*

**Clarification requested:** *Does this refer to the permit’s Section L. Inspection, Maintenance and Repair, or some other Attachment? Section L.5 lists minimum requirements of checklist.*

## **M. Training and Qualifications**

Page 26

1. *“...shall comply with the requirements in Section IX and X.”*

*Problem noted: Section numbers have changed*

**Suggested Language:** *“ ... shall comply with the requirements in Section X and XI.”*

## **XI. Rain Event Action Plan**

Page 28

5. *“ ... provisions of Sections III, IV, and V... relevant requirements from Sections VI, VII, and VIII of this General Permit.”*

*Problem noted: Section numbers have changed*

**Suggested action:** *Confirm that section numbers are accurate. Last section should refer to Sections VII, VIII and IX.*

## **XII. Conditions for Termination of Coverage**

Page 30

2.c *“Storm water discharges from all stabilized areas contain turbidity less than 40 NTU.*

*Problem noted: Proposed language provides no guidance on how/where to sample for stormwater discharges from all stabilized areas. Also, why not measure turbidity of discharges from any remaining unstabilized areas?*

**Suggested action:** eliminate “stabilized”, and provide guidance on what type of sampling regime is required.

### Attachment A: Glossary

**Suggested addition: Permit Registration Documents (PRDs) -**

*Note: First reference is in Section II.B.5. Revising Permit Coverage for Change of Acreage. Section II.B.5 notes that PRDs include a NOI, SWPPP, and SWPPP Compliance Checklist. Section VII.1 requires all discharges to electronically file all PRDs. Attachment C-NOI and Instructions requires electronic filing of PRDs, which include a NOI, SWPPP, and SWPPP Checklist.*

### Attachment F: Sediment Transport Risk Worksheet

*Footnote 1 suggests assigning points based on dominant soil or most critical conditions that affects 10% or more of the site. Footnote 1 should apply to #5. (Runoff potential of dominant soils), but not to # 1 (Proximity to receiving waters). If up to 10% of the construction site is in a stream channel, wetland, lake, etc., the Proximity to receiving water score should be 100, not 50. **Suggested Change: remove Footnote 1 from title line for Attachment F, and only use this footnote with #5.***

1. Proximity to Receiving Water.

*Point totals are 100, 50, or 0. Need to clearly state that if a project is both in the 100 point and 50 point categories, the 100 points score applies. Example: For a project with construction activities in a wetland, but where the project is also within a 100 year floodplain, the score should be 100, not 50.*

*“Have runoff routed directly to a surface water...” Need to clarify or remove “directly”. Is the intent to exclude runoff routed from project which flows through a municipal permittees treatment BMPs before discharge to surface waters? Is the intent to exclude project runoff which goes into a pipe or ditch which also receives discharge from other sources before direct discharge to a surface water?*

**Suggested Change: delete “directly”.** Even if there are treatment BMPs on the conveyance system that receives project runoff, the municipal stormwater system would perform better if sediment discharged from upstream projects is minimized. Commingling flows does not reduce the risk of sediment transport, therefore projects should not be taken out of the moderate risk category just because flows from other projects are conveyed in the same pipe or channel.

**Also Consider:** In Attachment A-Glossary, clarify whether “direct discharge” excludes discharge into conveyances carrying commingled flows or with treatment BMPs downstream of the conveyance.

3. Will the site be cleared and graded outside of the designated rainy seasons and will Erosivity Index (R) be less than 5?

Designated rainy season.

1) **Include a rainy season map in the Attachment**, rather than by reference to a Caltrans document that is unlikely to be available once a new Caltrans SWMP is prepared.

2) **Modify the designated rainy season map for Lahontan area.** While the 2003 Caltrans SWMP's Designated Rainy Season map partially addressed Regional Board concerns by acknowledged impacts of summer thunderstorms and adding a August 1-November 1 rainy season, RB6 staff had asked Caltrans to designate a year-round rainy season for > 1200 meter Lahontan areas. The 2003 Caltrans designation leaves two gaps (May-July and October) in the rainy seasons.

These "non-rainy" season(s) in mountain areas receive a higher percentage of annual precipitation than most other parts of California. In these mountain areas, soils may still be wet in late spring, and sediment discharges from improperly-BMP-ed construction sites have occurred during rainfall in both the May-July, and October "non-rainy" seasons.

Lahontan Region Project Guidelines for Erosion Control which are part of the R6 Waste Discharge Requirements for small construction projects in the Little Truckee River, Truckee River, West Fork Carson, East Fork Carson, Mono, and Long Hydrologic Units already limits or prohibits land disturbance after October 15 of each year. Designating the month of October as a non-rainy period, suggests there is less risk from soil disturbance in October than in September.

3) **Clarify that the rainy season risk trigger is not just the date of the clearing and grading, but whether cleared or graded soils are left unstabilized during the rainy season.** Permittees could assume that the proposed language high risk trigger is the date the site is cleared and graded. Sediment transport risk should be high if applicants expect cleared and graded unstabilized soils to persist on the site during any part of the rainy season. Permit sections IX.C.3 and IX.E.3 require the discharger to stabilize active disturbed areas.

**Suggested Changes:**

Modify Designated Rainy Season Map to show year-round rainy season for Lahontan Area > 1200 meters, or if a year-round rainy season is unacceptable, designate rainy season for Lahontan Area > 1200 meters as August 1 through June 1.

For worksheet, consider 1. or 2.



1. Will Erosivity Index (R) be equal to or greater than 5 or, (due to clearing or grading), will the site have unstabilized bare soils during the designated rainy seasons?

Yes 100  
No 0

Or

2. Erosivity Index (R) equal to or greater than 5. 100 pts

Erosivity Index (R) less than 5, but site will have unstabilized disturbed soils during the designated rainy season. 50 pts

Erosivity Index (R) less than 5, and all disturbed soils stabilized during the designated rainy season. 0 pts

(If needed, could define stabilized to specify mulch, tackifier, blankets, etc., as opposed to merely having perimeter sediment controls)

Alternative 2 is preferred, since it allows an intermediate score between 0 and 100.

**Attachment H: Sediment Basin Sizing**

Page 77. "The greater of the two runoff volumes is then used to size a perforated riser to discharge the runoff volume over a 24- to 72 hour period. ... Local vector control regulations may apply."

Problem noted: Perforated risers designed to discharge in 24 to 72 hours may bypass

