

2.0 Tahoe Regional Planning Agency Permitting Requirements

The following offers a general synopsis of the permitting requirements of the Tahoe Regional Planning Agency (TRPA). It outlines a process typically required of activities proposed by transportation departments and other project proponents located in or adjacent to roadways in the Lake Tahoe Region. The reader is advised to refer to the appropriate project application packet provided by TRPA, and ultimately, TRPA's Code of Ordinances to insure that their activity or project is properly planned, designed, and approved by TRPA.

It should be noted that any activity, depending upon its nature, might require approval of other regulatory entities in addition to the approval of Lahontan and TRPA. The user of this guidance document is cautioned not to use this document alone to determine the regulatory requirements of any given activity.

2.1 Exempt, Qualified Exempt, or a Project?

Chapter 4 of the Tahoe Regional Planning Agency (TRPA) Code of Ordinances specifies what types of activities are considered *Exempt*, *Qualified Exempt*, or a *Project*.

Exempt Activity: Activities that are not likely to have a significant impact on the environment and require less than 3 yd³ of disturbance. No notice or permit is required prior to an exempt activity occurring.

Should TRPA determine that the activity may have an impact on the environment, the exemption may be revoked by TRPA and a permit required.

Qualified Exempt Activity: Activities that may have a significant impact on the environment if not properly conducted and requires 3-7 yd³ of disturbance. A Qualified Exempt Activity Declaration is required to be submitted to TRPA prior to commencement of the activity. Should TRPA determine that the activity may have an impact on the environment, the exemption may be revoked by TRPA and a permit required.

Project: An activity undertaken by any person, including any public agency, that requires more the 7 yd³ of disturbance and may substantially effect the land, water, air, or any other natural resources of the Lake Tahoe Region. A TRPA permit must be issued prior the initiation of any project.

Memorandum of Understandings (MOUs)

Most local jurisdictions and transportation departments have entered into a MOU with TRPA. MOUs specify what types of activities can occur within the local jurisdiction or transportation route without a TRPA permit, and usually increase the scope of exempt and qualified exempt activities that can be conducted.

Plan Area Statements

Plan Area Statements (PASs) define what uses are allowable in different locations in the Lake Tahoe Region. Definition of uses may be found in Chapter 18 of the TRPA

Code of Ordinances. The majority of activities or projects undertaken with guidance from this manual will be linked to *Pipelines and Power Transmission, Public Utility Centers, Regional Public Health and Safety Facilities, Transit Stations and Terminals, or Transportation Routes*. It is unlikely, but not impossible that a new use will be proposed in conjunction with activities guided by this manual. If a change in use is proposed, TRPA's Plan Area Statements must be reviewed.

Public Service Projects

Many activities or projects undertaken with guidance from this manual will be Public Service Projects. The requirements summarized below may be found in TRPA's Public Service Facility Structures Application Packet.

Land Capability

Projects that propose to add, transfer, relocate, or remove impervious land coverage are likely to require verification. The ability to add, relocate, or transfer land coverage is dependant upon the land capability districts present in the project area. In addition, it may be necessary to verify existing land coverage. If land coverage is removed without land coverage verification, rights to existing land coverage may be lost.

Initial Environmental Checklist

Project applications require completion of an Initial Environmental Checklist (IEC). This checklist, in part, determines if the project may be approved with a Finding of No Significant Effect (FONSE), or whether

additional environmental review is required prior to approval of the project.

Change in Operation

A Change in Operation is any modification, change, or expansion of an existing or previous use resulting in additional vehicle trip generation. While not likely associated with activities or projects completed with guidance from this manual, should a change in operation be proposed, vehicle trip information is required to be submitted as part of the Qualified Exempt Activity Declaration or project application. An increase in vehicle trips because of the change in operation will require submittal of Air Quality Mitigation Fees.

Public Service Application Checklist

If the proposed activity is determined to be a Project, a permit will be required, and a complete application for permit submitted to TRPA. An application checklist has been provided to insure that a complete application is submitted (see Appendix I).

2.2 TRPA Discharge Specifications and Prohibitions

TRPA's Water Quality Management Plan for the Lake Tahoe Region (208 Plan), and Chapter 81 – Water Quality Control of TRPA's Code of Ordinances specify discharge limits to surface and groundwater for certain pollutants.

Surface Water Discharge Limits per Chapter 81, TRPA Code of Ordinances	
Constituent	Max Concentration
Dissolved Inorganic Nitrogen as N	0.5 mg/l
Dissolved Phosphorus as P	0.1 mg/l
Dissolved Iron as Fe	0.5 mg/l
Grease and Oil	2.0 mg/l
Suspended Sediment	250 mg/l

If the constituent levels of water entering a site from upstream areas are of a superior or equal quality to the above, those waters shall meet the quality level listed above prior to discharge from the site.

If the constituent levels of waters entering a site do not meet the quality levels above, there shall be no increase in the concentrations of these constituents in water discharged from the site, based on a 24 hour average.

Groundwater Discharge Limits per Chapter 81, TRPA Code of Ordinances	
Constituent	Max Concentration
Total Nitrogen as N	5 mg/l
Total Phosphate as P	1 mg/l
Iron as Fe	4 mg/l
Turbidity	200 JTU
Grease and Oil	40 mg/l

Where there is a direct hydrologic connection between ground and surface waters, discharges to groundwater shall meet the standards for surface runoff. A direct hydrologic connection is presumed to exist wherever, by virtue of proximity to a surface water body, nature of soils, or slope or gradient, and the residence time of runoff water discharged into the ground is too short

to remove pollutants for the runoff. Sediment traps, consistent with the Handbook of Best Management Practices, shall be used to protect infiltration devices from excessive sedimentation.

Discharge requirements to groundwater are less stringent based on the premise that the soil profile is capable of cleansing subsurface water. This may be true for the discharge of urban/roadway runoff, however, with regards to maintenance activities where water is used to remove sediments and pollutants from water quality treatment devices, concentrations of nutrients and pollutants are magnified such that discharge/disposal to groundwater may violate standards. This material should be considered waste and requires appropriate handling.

Note that Lahontan’s standards for nitrogen are expressed in mg/l of total N (TKN + NO₃-N), and mg/l of total P. TRPA’s standard for nitrogen is expressed in mg/l of dissolved inorganic nitrogen as N, and dissolved phosphorus as P. Due to the differences in nutrient species type measured, TRPA’s standards are less restrictive than Lahontan’s.

Other Prohibitions

Best Management Practices: Chapter 25 – Best Management Practice Requirements specifies the requirements for installation of Best Management Practices (BMPs), both temporary and permanent, in the Lake Tahoe Region. Chapter 25 also specifies the cases where Federal Discharge Permits may be required. Standard BMP Requirements for Projects include control of runoff water, cut and fill slopes, denuded areas, drainage

conveyance, roads-driveways-parking areas, and BMP maintenance.

Runoff Infiltration, Conveyance, and Treatment

Ordinance requirements to infiltrate, convey, and treat roadway runoff generated by the 20-year, 1-hour design storm are specified in Chapter 25 of the TRPA Code of Ordinances. This document guides the methods by which the above standards are achieved by describing various BMPs appropriate for use in the Tahoe Region.

2.3 Design Standards

TRPA Design Standards, in addition to guidance provided by this document, are found in Chapter 30 – Design Standards of the TRPA Code of Ordinances, and in Community Plans that have been adopted in the Region. All Projects are required to adhere to the standards of this chapter and those of adopted Community Plans. Exempt activities may be required to adhere to water conservation and combustion appliance standards. In particular, all federal and state highways in the Lake Tahoe Region, and Pioneer Trail, are designated scenic highways. Scenic highway corridors exist which may be impacted by projects that are improperly designed. Most activities that potentially impact scenic quality will require a permit.

2.4 TRPA Fees

At this time, application fees for *Public Service Projects* range from \$215 to \$1610.

For complete information, refer to TRPA's current Filing Fee Schedule.

2.5 Lahontan Permitting Requirements – California Only

In the effort to limit the impact of potential discharge from construction projects, the Lahontan Regional Water Quality Control Board (Regional Board) regulates construction projects under several different permitting programs for the California side of the Lake Tahoe Basin. The following permit discussion (2.6-2.10) applies only to projects constructed in California.

“The Regional Board implements the Federal Clean Water Act, the California Water Code (including the Porter-Cologne Act) and a variety of laws intended to control solid, toxic, and hazardous wastes. The Regional Board has authority to set and revise water quality standards and discharge prohibitions. It may issue permits, including Federal NPDES permits and Section 401 water quality certifications, and State waste discharge requirements or waivers of waste discharge requirements. Its planning and permitting actions require compliance with the California Environmental Quality Act (CEQA). The Regional Board has broad enforcement authority; actions may range from staff enforcement letters, through cleanup and abatement or cease and desist orders, to civil penalties or referral to the California Attorney General” (excerpt from the Water Quality Control Plan for the Lahontan Region, 5-3).

2.6 General Waste Discharge Requirements

Applicability

Board Order 6-91-31 serves as the General Waste Discharge Requirements for the discharges from construction activities of small projects. Small projects are defined as those resulting in under five acres (under one acre beginning December 8, 2002) of land disturbance in the Lake Tahoe Hydrologic Unit. To qualify, project proponents must submit a complete report of waste discharge detailing (a) schedule for the completion of construction; (b) characterization of the nature and volume of the potential discharge; (c) description and/or designs for storm water treatment facilities; and (d) plans for completion of any necessary re-stabilization and revegetation. Project plans must also include an erosion control and stormwater runoff management plan specifying temporary and permanent measures to prevent the discharge of pollutants, including waste earthen materials, from the project site.

Discharges and/or disturbances to surface waters, floodplains, or stream environment zones (SEZs) are prohibited by the Water Quality Control Plan for the Lahontan Region (Basin Plan). Projects involving such discharge must be granted a prohibition exception by the Executive Officer or the Regional Board.

Application and Fees

Pursuant to Section 13260 of the California Water Code persons discharging or proposing to discharge waste that may affect the quality of waters of the State must file a

Report of Waste Discharge (including Form 200). Submit application at least 60 days in advance of construction.

For General Waste Discharge Requirements (Board Order 6-91-31) a \$200 filing fee is required, followed by a \$200 annual fee until the project is completed and stabilized. The annual fee must be paid until revocation has been requested and Regional Board staff have made a final inspection to ensure compliance.

2.7 National Pollution Discharge Elimination System (NPDES) General Permit CAG616002

Applicability

Projects involving the temporary discharge of erosion products and construction waste materials that result in five acres or more (one acre or more beginning December 8, 2002) of land disturbance are covered under **NPDES General Permit (Board Order 6-00-03)**. As with Board Order 6-91-31, this permit does not cover disturbance to lands classified as Stream Environment Zones (SEZ) or Bailey Land Capability Classification 1b. A separate prohibition exemption must be granted for such activity. Furthermore, this permit does not cover discharges to surface waters resulting from de-watering activities (General NPDES Permit No. 6-98-36 applies to Limited Threat Discharges to Surface Waters such as construction de-watering, pump tests, and water line testing).

Application and Fees

Pursuant to Section 13260 of the California Water Code persons discharging or

proposing to discharge waste that may affect the quality of waters of the State must file a Report of Waste Discharge (ROWD or Form 200). In addition, project proponents must submit a Notice of Intent (NOI) to comply with the provisions of the NPDES General Permit, a Storm Water Pollution Prevention Plan (SWPPP), and a detailed monitoring plan. Submit application materials at least 60 days in advance of construction.

For the NPDES Construction General Permit, a \$250 filing fee is required, followed by a \$250 annual fee until the project is complete and stabilized. The annual fee must be paid until revocation has been requested and Regional Board staff have made a final inspection to ensure compliance.

2.8 Discharge Specifications and Prohibitions for General Construction Permits

The following specifications and prohibitions are applicable to the two permits discussed in sections 2.6 and 2.7 above.

Details regarding appropriate storm water treatment BMPs and discharge prohibitions are outlined in the text of **Board Order Nos. 6-91-31 and 6-00-03**.

The following list highlights some important restrictions.

1. During construction activities, the operation of any storm water infiltration and/or treatment facility shall be in compliance with the effluent standards and receiving water objectives outlined

in the Water Quality Control Plan for the Lake Tahoe Basin.

2. Storm water runoff collection, treatment, and/or infiltration facilities must be designed, installed, and maintained for storm water runoff from a 20-year, 1-hour design storm from all impervious surfaces.
3. Unless specifically granted, authorization pursuant to the General Permit does not constitute an exemption to applicable discharge prohibitions prescribed in the Basin Plan.
4. Prior to the initiation of any construction-related activities, the Discharger shall install temporary erosion control measures to prevent transport of earthen materials and other wastes off the property.
5. Best Management Practices (BMPs) shall follow guidelines detailed in Section III of the NPDES General Permit.
6. The discharge or threatened discharge of solid or liquid waste materials including soil, silt, clay, sand, and other organic and earthen materials to surface water, to lands within the high-water rim of Lake Tahoe, or within the 100 year floodplain of any tributary to Lake Tahoe is prohibited.
7. The discharge or threatened discharge, attributable to new development in Stream Environment Zones, of solid or liquid waste, including soil, sit, sand, clay, rock, metal, plastic, or other organic, mineral, or earthen materials to

Stream Environment Zones in the Lake Tahoe Basin is prohibited.

8. The removal of vegetation or disturbance of ground surface conditions between October 15 of any year and May 1 of the following year is prohibited.
9. Prior to October 15 of each year, the Discharger shall provide permanent or temporary (if the project is incomplete) stabilization of all disturbed or eroding areas through commencement of revegetation and/or completion of mechanical stabilization measures. The Regional Board Executive Officer may grant variances if construction is not complete provided the time extension does not result in a water quality threat and winterization occurs before inclement weather. Such variances are generally granted for continued grading for purposes of erosion control, water quality protection, or public health and safety.
10. Construction activities that involve crossing or alteration of a stream channel require a prior written agreement with the California Department of Fish and Game.

Also, the NPDES General Permit outlines specific monitoring and reporting guidelines and requires additional Best Management Practices (BMPs) to implement during construction activity for restoration projects. These guidelines and additional BMPs are covered in Attachment "C" of Board Order 6-00-03.

2.9 Clean Water Act Section 401 Water Quality Certification

Anyone proposing to conduct activities that may result in a discharge to surface waters of the State that require a Federal Permit (such as from the Army Corps of Engineers) will also require Water Quality Certification from the Regional Board. Waters of the State include but are not limited to wetlands, riparian zones, streambeds, and lakes.

Water Quality Certification consists of a statement from the Regional Board that the proposed project will not violate water quality standards and will protect the water for beneficial uses.

To obtain Water Quality Certification, applicants are required to submit a detailed project description including dates of proposed activities, location maps, estimates of the volume of dredged or fill material, and/or the size of the area to be disturbed. In addition, copies of applications for other local or federal permits and any other environmental documents should be submitted. A \$500 fee is required to assess application completeness and will cover a standard Water Quality Certification. Projects requiring a Technically Conditioned certification may involve additional fees, depending on the quantity of dredge or fill material.

2.10 Basin Plan Prohibitions

Chapter 5 of the Water Quality Control Plan for the Lahontan Region (Basin Plan) outlines specific Waste Discharge Prohibitions applicable within the Lake Tahoe Hydrologic Unit. These include both region wide prohibitions and prohibitions specifically applicable to the Lake Tahoe Hydrologic Unit. Many of these prohibitions are echoed in the General Permits discussed above. The following is an incomplete list intended to highlight some important restrictions.

1. The discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand, and other organic and earthen materials to surface waters of the Lake Tahoe Basin, is prohibited.
 2. The discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand, and other organic and earthen materials to lands below the high water rim of Lake Tahoe or within the 100-year floodplain of any tributary to lake Tahoe is prohibited.
 3. The discharge or threatened discharge, attributable to new development or new disturbance in Stream Environment Zones, of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral, or earthen materials, to Stream Environment Zones in the Lake Tahoe Basin is prohibited.
- The Regional Board may grant exemptions to the prohibitions against discharges or threatened discharges attributable to new development or permanent disturbances in SEZs only under the following circumstances:
1. For public outdoor recreation facilities if all of the following findings can be made:
 - a. The project by its very nature must be sited in a SEZ;
 - b. There is no feasible alternative which would reduce the extent of SEZ encroachment;
 - c. Impacts are fully mitigated; and
 - d. SEZs are restored in an amount 1.5 times the area of SEZ disturbed or developed for the project.
 2. For public service facilities if all of the following findings can be made:
 - a. The project is necessary for public health, safety, or environmental protection;
 - b. There is no reasonable alternative, including spans, which avoids or reduces the extent of encroachment;
 - c. The impacts are fully mitigated; and
 - d. SEZ lands are restored in an amount 1.5 times the area of SEZ developed or disturbed by the project.
 3. For erosion control projects, habitat restoration projects, wetland rehabilitation projects, Stream Environment Zone restoration projects, programs, and facilities, if all of the following findings can be made:

- a. The project, program, or facility is necessary for environmental protection;
- b. There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the Stream Environment Zone;
and
- c. Impacts are fully mitigated.