

NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT

DRAFT Order No. R1-2024-0002

General Waste Discharge Requirements
and General Water Quality Certification for
Rural Road and Watercourse Construction and Reconstruction
in the North Coast Region

NOTICE IS HEREBY GIVEN that the North Coast Regional Water Quality Control Board (Regional Water Board) will receive comments on the above-referenced Draft Order no later than **January 14, 2024**, in accordance with this notice, and a public hearing to consider comments and objections to the Draft Order is scheduled for Thursday or Friday, **April 4 or 5, 2024**, at 8:30 a.m. in the Regional Water Board Hearing Room, 5550 Skylane Blvd, Suite A, in Santa Rosa, California. This meeting is scheduled to occur with both a physical meeting location and an option for remote participation via video and teleconference. At the public hearing, the Regional Water Board will consider whether to affirm, reject, or modify the Draft Order.

Live video and audio broadcasts of the public hearing will be available via the internet and can be accessed at the [CalEPA Public meeting live webcasts webpage](https://video.calepa.ca.gov) (<https://video.calepa.ca.gov>). The public hearing will be recorded.

Please be aware that dates and venues may change. In accordance with the Bagley Keene Open Meeting Act (Gov. Code, § 11120 et seq.), an agenda will be posted to the Board's website at least 10 days in advance of the meeting. The agenda will specify any updates to the meeting format. The Regional Water Board's website address is: <http://www.waterboards.ca.gov/northcoast> where you can access the current agenda for changes in dates and locations.

Draft Order

The Nonpoint Source and Surface Water Protection Division (NPS Division) of the North Coast Regional Water Quality Control Board (Regional Water Board) is developing for Board consideration a new Rural Roads General Order, or RRGO, will include a General 401 Water Quality Certification and Waste Discharge Requirements intended to streamline the permitting process for routine watercourse crossing and/or road remediation projects.

The primary goals of the RRGO are to improve the Regional Water Board's permitting tools for road-related construction/reconstruction activities, expand regulatory engagement, increase administrative efficiencies, and improve water quality protections.

The proposed Order itself does not require landowners to conduct projects that they otherwise were not planning to do. However, in addition to routine rural road treatment projects, the RRGO may also be used as a permitting tool for those projects that may be required pursuant to a regulatory action by the Regional Water Board or other agency, such as projects that are required through an enforcement action or a TMDL Action Plan.

The Regional Water Board, acting as the lead agency under the California Environmental Quality Act (CEQA), has prepared an Initial Study and Mitigated Negative Declaration as part of the development of this Order. The CEQA review period will run concurrently with the public comment period.

Problem Statement

Many watersheds in the North Coast Region are identified as being impaired due to excess sediment which continues to impact the beneficial uses of water. Most of these impairments are partially or substantially attributed to existing roads and their associated watercourse crossings that are necessary to conduct a variety of land use activities, such as timber harvest, agriculture, rural residential, and recreation.

Road-related erosion and associated sediment discharges to watercourses are a significant challenge for the Regional Water Board. Although some of the Regional Water Board's programs include effective regulatory processes to efficiently address road and watercourse crossing treatments, others do not, which can pose a challenge for landowners and an increased workload for staff.

Project Standards

The Regional Water Board has developed the RRGO to more effectively address existing erosion and sediment discharge associated with road and watercourse crossings, or to expedite new road and watercourse crossing construction activities. Through the development of the RRGO, which requires adherence to established best management practices (BMPs), the RWB anticipates improved regulatory efficiencies for permitting routine watercourse crossing replacement and remediation activities as well as ensuring that the highest level of water quality protection practices is applied to construction of new roads and watercourse crossings, which will lead to greater erosion controls and reduced sediment discharges to watercourses.

The RRGO will require permittees to adhere to enforceable standards based on current BMPs for projects that upgrade existing infrastructure (e.g., watercourse crossings), reduce road hydrologic connectivity to streams, or construct new infrastructure.

Approvable projects must adhere to pre-established BMPs, construction standards, and schematics (e.g., PWA Handbook on Forest, Ranch and Rural Roads, applicable operational provisions of the Forest Practice Rules, 5C Roads Maintenance Manual) to qualify for one of the five permitting categories described below. Appropriate BMPs must be implemented at all watercourse crossings, hydrologically connected road segments, and any road locations that have the potential to discharge sediment in violation of water quality requirements.

Incentives for Restoration/Remediation Actions

The RRGO provides additional incentives for projects that are undertaken voluntarily for the purpose of improving aquatic habitat conditions (e.g., removal of barriers to fish migration) or to reduce sediment discharges to waterbodies. Projects that Regional Water Board staff determine are beneficial to water quality will qualify for reduced permit

fees as provided by Category D – Ecological Restoration and Enhancement Projects, from the State Water Board’s fee schedule.

However, the RRGO will also be available to enroll projects regardless of their primary purpose (i.e., new development projects or projects required through enforcement actions) provided they are implemented according to all necessary BMPs to protect waters of the state. These non-restoration or sediment remediation associated projects would not qualify for the EREP fee category and will be subject to the applicable fee as determined by the fee schedule for the project type.

Eligible Project Categories

The RRGO includes three project categories that are designed to qualify for the reduced EREP fee category in the State Water Board’s [Dredge and Fill Fee Calculator](#), and as described below:

1. Voluntary road and watercourse crossing projects that provide a benefit to water quality (see examples above).
2. Grant funded projects that are designed to provide water quality or aquatic habitat restoration benefits, such as those funded through the 319h Nonpoint Source Control Program, CDFW Fisheries Restoration Grant Program, NOAA Fisheries Restoration Center, etc.
3. Projects on roads and trails on California State Parks lands that implement applicable BMPs from the guidance documents.

The RRGO includes two project categories that are subject to the non-reduced fee categories described in the State Water Board’s [Dredge and Fill Fee Calculator](#) (contact the RWB for guidance on which fees apply to your project):

4. New road and/or watercourse crossing construction projects.
5. Projects conducted in response to regulatory enforcement actions by the Water Board, California Department of Fish and Wildlife, or other regulatory agencies.

Compensatory Mitigation/No Net Loss

Some projects authorized through the RRGO will require compensatory mitigation to offset losses of stream or wetland habitat features and to conform with California’s Wetlands Conservation Policy, also referred to as the “No Net Loss Policy” (Executive Order W-59-93). Other road and watercourse crossing projects, like those that provide environmental benefits for water quality or eliminate or remediate pollution discharges, may be considered “self-mitigating”, and therefore do not require compensatory mitigation. Applicants will need to contact the Regional Water Board staff to discuss their project type, purpose, and overall effect on the environment to determine whether compensatory mitigation is required. Projects that propose new permanent impacts to

wetlands, such as new watercourse crossings where wetland features are present and may be impacted, must include an alternatives analysis, which demonstrates that impacts from the proposed project are the least environmentally damaging, feasible option to meet the landowner's objectives. If requested by the Regional Water Board staff, the analysis must include compensatory mitigation.

Post-Project Monitoring

The RRGO will require project proponents to conduct monitoring and reporting including post-completion on-site evaluations to indicate whether BMPs and compensatory mitigation were implemented as designed (while still providing a mechanism to allow flexibility to make changes during implementation as conditions warrant) and are functioning properly/self-sustaining, or whether additional work is needed. Default duration of the monitoring requirement will likely be two years for watercourse crossing and road projects, and up to five years for compensatory mitigation. These timeframes could be modified on a project-specific basis with Regional Water Board staff approval.

Monitoring Reports will be submitted by the project proponent on an annual basis to the Regional Water Board, documenting status of achievement of performance standards and project goals. Monitoring Reports will include:

- A brief summary of findings;
- Identification and discussion of attainment of, or any problems achieving performance standards;
- Proposed corrective measures to address problems described above.

Document Review

Copies of the Draft Order, related documents, and comments received are on file and may be inspected or copied at the Regional Water Board office during normal business hours or viewed at:

http://www.waterboards.ca.gov/northcoast/board_decisions/tentative_orders/

http://www.waterboards.ca.gov/northcoast/public_notices/public_hearings/npdes_permits_and_wdrs.shtml

For further information, please contact Regional Board staff member Jim Burke (707) 576-2289 or James.Burke@waterboards.ca.gov.

Written Public Comment Period

The Draft Order is available for public review for 45 days, from **December 1, 2023** and ending on **January 14, 2024**. Persons wishing to comment in writing on the Draft Order must submit comments to the Regional Water Board no later than the close of the 45-day public review period, 5:00 p.m. on approximately January 14, 2024, in order to ensure written responses to their comments prior to the Board hearing.

Written comments may be submitted by US mail, email, or fax to Jim Burke at:
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
James.Burke@waterboards.ca.gov
(707) 523-0135 Fax

Written material received after the above date will not be accepted except at the discretion of the Regional Water Board Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would be prejudicial. The Chair may choose to modify this rule upon a showing of severe hardship (California Code of Regulations, title 23, sections 648.1 and 648.4).

Public Hearing Procedures

The public meeting to consider the Draft Order has been scheduled for Thursday, April 4 or 5, 2024, in the Regional Water Board Hearing Room, 5550 Skylane Blvd, Suite A, in Santa Rosa, California or as otherwise noticed in the Meeting Announcement. Please be aware that dates and venues may change.

Oral comments or testimony will be accepted at the hearing. The time limit for public oral comments or testimony will be 5 minutes; however, additional time may be provided, upon request, at the discretion of the Regional Water Board Chair. A timer may be used, and speakers are expected to honor the time limits. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive.

The procedures governing Regional Water Board hearings may be found in the California Code of Regulations, title 23, section 648 et seq. and are available up on request.

Accessibility

For directions to the North Coast Regional Water Quality Control Board offices, please refer to: http://www.waterboards.ca.gov/northcoast/about_us/contact_us.shtml. Parking for the meetings is available onsite. Individuals requiring special accommodations are requested to contact Ms. Deidre Wilkerson, Executive Assistant, at (707) 576-2066 or Deidre.Wilkerson@Waterboards.ca.gov at least five days prior to the meeting. TTY/TDD/Speech-to-Speech users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Ex Parte Communications

Ex parte communications are allowed in this matter subject to the disclosure requirements of Water Code section 13287. A form to assist in this process can be found on the Regional Water Board's website at:

http://www.waterboards.ca.gov/northcoast/public_notices/pdf/2013/130118_NorthCoast_disclosure.pdf

The Water Board is required to post the disclosure on its website and to distribute it via any electronic distribution list for the Draft Order. Ex parte disclosures shall not constitute written comments or evidence on a Draft general order. You must provide the comments or evidence by following the procedure and timelines provided above. **Ex parte communications are prohibited for a period beginning 14 days before the board meeting at which the Draft order is scheduled for board action.** If the board does not take action on April 4 or 5, 2024, the ex parte prohibition will remain in place until the board, the Chair or the Executive Officer directs otherwise. Once lifted, the prohibition on ex parte communications may be reinstated for 14 days before the day of the board meeting to which the decision is continued. The Board will provide notice via the Lyris and the interested persons email lists for this item if the prohibition is lifted and/or reinstated.

Regional Water Board Staff Contact

Questions regarding the Draft Order should be directed to Jim Burke, North Coast Regional Water Quality Control Board, 5550 Skylane Blvd., Suite A, Santa Rosa, CA, 95403, by phone (707) 576-2289, or email at James.Burke@waterboards.ca.gov