

Frequently Asked Questions
Department of Health (DOH), Clean Water Branch (CWB) Permitting Requirements for
In-Water Work Scenarios

Scenario #1

There is an in-water project which requires a dry work area. Isolation Best Management Practices (BMPs) will be placed within the receiving water body to create the dry work area. Within the isolation BMPs there is water. Prior to construction activities commencing, water will be pumped from the isolated work area and discharged back to the receiving water body. Does this discharge of water back to the receiving water body require a National Pollutant Discharge Elimination System (NPDES) permit or some other permit from the DOH-CWB?

Answer: Please contact the Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) to find out if a Department of the Army (DA) Permit will be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the DOH-CWB.

- A NPDES permit is not required for the pumping of water from the isolated in-water work area if a DA Permit authorizes this activity.
- A NPDES permit is required for the pumping of water from the isolated in-water work area if a DA Permit is not required or if the DA Permit does not authorize this activity. The discharge to the receiving water body will have to comply with the NPDES permit requirements.

Scenario #2

There is an in-water project which requires a dry work area. Isolation BMPs will be placed within the receiving water body to create the dry work area. Within the isolation BMPs there is sand and water. Prior to construction activities commencing, the sand and water will be pumped out of the clear water isolation BMP and discharged back into the receiving water body. Does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: Please contact the Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) to find out if a Department of the Army (DA) Permit will be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the DOH-CWB.

- A NPDES permit is not required for the pumping of sand and water from the isolated in-water work area if a DA Permit authorizes this activity.
- A NPDES permit is required for the pumping of sand and water from the isolated in-water work area if a DA Permit is not required or if the DA Permit does not authorize this activity. The discharge to the receiving water body will have to comply with the NPDES permit requirements.

Scenario #3

There is an in-water project and dewatering is required during construction to keep the work area dry. Does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: A NPDES permit is required if dewatering effluent is discharged directly to State surface waters or indirectly to a State surface water via a drainage system. A NPDES permit is not required if the dewatered effluent is pumped on land and contained on land with no discharge to State surface waters.

Scenarios #4

There is an in-water project in a stream that requires a dry work area. Prior to construction activities commencing, a temporary diversion using berms or cofferdams will be used to divert flow to one side of the stream and allow dry conditions on the other side. Does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: A NPDES permit is not required for this temporary diversion if the diversion is made without subjecting the transferred water to intervening industrial, municipal, or commercial use. Note: The Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) should be contacted as a Department of the Army (DA) Permit may be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the Department of Health.

Scenario #5

There is an in-water project in a stream that requires a dry work area. Prior to construction activities commencing, a temporary diversion using lined ditches, pipes, or pumping (pumped diversions or “pump arounds”) will be used to divert the entire waterway. Does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: A NPDES permit is not required for this temporary diversion if the diversion is made without subjecting the transferred water to intervening industrial, municipal, or commercial use. Note: The Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) should be contacted as a Department of the Army (DA) Permit may be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the Department of Health.

Scenario #6

A person is proposing to convey or connect one State water to another State water without subjecting the transferred water to intervening industrial, municipal, or commercial use. Does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: A NPDES permit is not required for this activity as long as the transfer is made without subjecting the transferred water to intervening industrial, municipal, or commercial use. Note: The Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) should be contacted as a Department of the Army (DA) Permit may be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the Department of Health.

Scenario #7

There is an in-water project where sediment will be dredged.

- a) Can the dredged material be disposed in the water?

Answer: Dredged material can only be disposed in an EPA designated Ocean Dredged Material Disposal Site after receiving approval from EPA to use this site. Dredged material disposal in all other locations in State waters is prohibited by the DOH.

- b) If the dredged material is placed and stockpiled on land, does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: A NPDES permit will be required for construction storm water discharges if the total land disturbance of the entire project, including the dredged material stockpile, is one acre or

more. Also, any return flow or runoff from the dredged material stockpile to State waters will require an individual NPDES permit, unless the return flow or runoff is authorized by a Department of the Army Permit.

- c) If the dredged material is placed on a barge or vessel and liquid from the dredged material is allowed back into the water, does this activity require a NPDES permit or some other permit from the DOH-CWB?

Answer: Please contact the Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) to find out if a Department of the Army (DA) Permit will be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the DOH-CWB.

- A NPDES permit is not required for the return flow or runoff from the dredged material to State waters if a DA Permit authorizes this activity.
- A NPDES permit is required for the return flow or runoff from the dredged material to State waters if a DA Permit is not required or if the DA Permit does not authorize this activity. The discharge to the receiving water body will have to comply with the NPDES permit requirements.

Scenario #8

There is an in-water project where sand will be mined or dredged to nourish a beach.

- a) Does this activity require a permit from the DOH-CWB?

Answer: A NPDES permit will be required for construction storm water discharges if the total land disturbance of the entire project is one acre or more. All areas above the high tide line, including sand beach areas, are considered land. Note: The Army Corps of Engineers, Regulatory Branch (Tel: 808-835-4303) should be contacted as a Department of the Army (DA) Permit may be required. A DA permit may trigger the need for a Section 401 Water Quality Certification (WQC) from the Department of Health.

- b) Can the sand be mined or dredged and placed directly in the area to be nourished that touches the State water?

Answer: Yes, but only if the Department of Land and Natural Resources accepts the beach nourishment activity. Best management practices (BMPs) must be utilized for the placement of the mined or dredged sand to protect public health and safety. These BMPs include, but are not limited to, posting warning signs and fencing off areas being used to temporarily store the mined or dredged sand.