



**EXEMPT**

A LOOK AT EXEMPTIONS  
 IN THE CONSTRUCTION GENERAL PERMIT

Exempt ... just the very sound of the word makes us feel good. It's like being granted a special status, told you can go to the front of the line, or the removal of a heavy burden. It's something everyone wants, no matter what the context. But, when it comes to regulations, an exemption is especially desirable. In this edition of **The Monthly Dirt**, we'll explore some exemptions that are contained in the Construction General Permit and what a discharger can do to qualify for one or more of them.

Some exemptions in the CGP are just a function of the type of project. For example, the following types of projects are always exempt:

- Construction activity that disturbs less than one acre of land surface, and that is not part of a larger common plan of development or the sale of one or more acres of disturbed land surface.
- Construction activity covered by an individual NPDES Permit for storm water discharges. An example of this would be a construction project that happens within a petroleum refinery or other large industrial facility that has an individual NPDES Permit.
- Disturbances to land surfaces solely related to agricultural operations such as disking, harrowing, terracing and leveling, and soil preparation.
- Construction activity that discharges to Combined Sewer Systems. A Combined Sewer System is one that receives and combines storm water runoff and sanitary sewage and directs it to a treatment facility. Similarly, projects within conveyances that discharge storm water runoff combined with municipal sewage do not need to be permitted. An example of this would be a project occurring within a municipal water treatment facility.
- Landfill construction activity that is subject to the Industrial General Permit. Typically, a landfill is subject to the construction permitting requirements during the time the landfill is initially constructed and prior to operation. A landfill is subject to the industrial permitting requirements during landfill

operations, and subject to the construction permitting requirements during final landfill closure activities. Construction or closure of a separate section of the landfill that is either subject to additional permitting by the local authorities and/or lasts more than 90 days requires coverage under the Construction General Permit.

- Discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances used for collecting and conveying precipitation runoff and which are not contaminated by contact with any operational products or wastes.

Other exemptions of the CGP are a function of where the project is located. Did you know that there are two groups in California that never need to be under this permit? They are:

1. Projects on federal Native American tribal lands; and
2. Projects occurring within the Lake Tahoe drainage basin.

Now, while it's true that these projects do not require coverage under the State Water Board's CGP, they do need to be covered by different storm water permits – the USEPA Construction Permit, and the Lahontan Regional Board's Construction General Permit for the Lake Tahoe Area, respectively.

But, there are some exemptions to the CGP that a project proponent has some control over and, in some cases, can manage

the project in such a way as to qualify for them. They include the following:

- Routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility. An example of this is road resurfacing work. Road grinding and even pavement removal is typically considered routine maintenance. But most Regional Boards consider that when soil below the existing subbase is disturbed, the project is no longer routine maintenance.
- Discharges from small (1- to 5-acre) construction activities with a Rainfall Erosivity Factor less than 5 ("R" in the Revised Universal Soil Loss Equation). To qualify for this exemption, project proponents can, in some cases, change when the project occurs or reduce the footprint of soil disturbance.
- Discharges occurring in basins that are not tributary or hydrologically connected to waters of the United States. This can include an existing condition or basin; or it can also include a basin that will be built during the project. For example, if a sufficiently large basin is built early on in the project under the CGP but then is stabilized and put in operation and all other runoff from the project is directed to and contained in the basin, then a Notice of Termination could be submitted claiming this exemption. However, it is important to note that, for this exemption, the permittee must get approval by the Regional Board by submitting calculations to demonstrate that there is no possibility of a discharge from the basin to waters of the United States.

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## R Value Manual Calculation

Recently we saw this message on the USEPA's R Value calculator.

**Note: EPA is aware that the LEW calculator is not functioning. We are working to fix it as quickly as possible. Please see the [Construction Rainfall Erosivity Waiver Fact Sheet](#) for manual calculation method.**

Fortunately, it did not remain down very long and, at last check, is again operational. However, from time to time it is necessary to manually calculate the R Value. To learn how to calculate the R value (which is needed for the State Water Board's waiver), we have attached an instructional flyer to this newsletter which has a link to the USEPA's Construction Rainfall Erosivity Waiver Fact Sheet.

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- ✓ QSP/QSD Training, **August 8-10, 2017**
  - Sign up at [www.gotswppp.com](http://www.gotswppp.com)
- ✓ Storm Water Awareness Week, **October 9-13, 2017**  
*(For more information about these classes, please email [jteravskis@wgr-sw.com](mailto:jteravskis@wgr-sw.com))*



New to the Permit?

Watch this Video on How to Sign-up for Permit Coverage

<https://www.youtube.com/watch?v=QXXwHDugl98>

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### Dry Weather Checklist

Now that the rains have appeared to stop, here are some things to put on your "to do" list:

- ✓ Perform dust control using water trucks or commercial dust suppressants.
- ✓ Repair erosion damage from the past wet season; fill rills and gullies.
- ✓ Replace damaged or worn-out perimeter controls.
- ✓ Designate a place for washing activities.
- ✓ Designate a secondary containment area for liquid materials stored outside.
- ✓ Control non-storm water discharges.

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*Please contact us if you have any questions ...*

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# Manual Calculation of the “R” Erosivity Factor

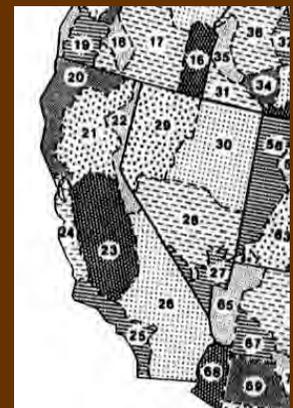
A summary of the information included in the State’s and EPA’s Guidance Document found at

[http://www.waterboards.ca.gov/rwqcb7/water\\_issues/programs/stormwater/docs/cgp\\_r\\_factor.pdf](http://www.waterboards.ca.gov/rwqcb7/water_issues/programs/stormwater/docs/cgp_r_factor.pdf)

## Step 1 – Find the Erosivity Index (EI) number on Figure 1:

- ✓ Identify which zone your project is in using Figure 1 on page 4 of the EPA’s fact sheet. We realize that it would be much easier to do this if the map had cities, counties, and other landmarks identified on it. Unfortunately, it does not, so you may need to cross reference with other maps such as Google Earth or Google Maps. But still, it may be tough to determine which zone to use when a project is near the zone boundaries.
- ✓ Lodi is within Zone 23, therefore, the EI for Lodi is 23.

Figure 1. Erosivity Index Zone Map



## Step 2 – Calculate the percentage of the Annual R value that applies to your project:

- ✓ Use Table 1 in the Fact Sheet (page 9).
- ✓ Find the corresponding percentages for the starting date and the ending date (Jun. 14 – Dec. 11, 2017).
- ✓ Subtract the starting percentage from the ending percentage.

Table 1. Erosivity Index (%EI Values extracted from USDA Manual 703)

All values are at the end of the day listed below - Linear interpolation between dates is acceptable.  
EI as a percentage of Average Annual R Value Computed for Geographic Areas Shown in Figure 1

	Jan	Jan	Jan	Feb	Mar	Mar	Mar	Apr	Apr	May	May	Jun	Jun	Jul	Jul	Aug	Aug	Sept	Sept	Oct	Oct	Nov	Nov	Dec	Dec
	1	16	31	15	1	16	31	15	30	15	30	14	29	14	29	13	28	12	27	12	27	11	26	11	31
23	0	7.9	15.0	20.9	25.7	31.1	35.7	40.2	43.2	46.2	47.7	48.8	49.4	49.9	50.7	51.8	54.1	57.7	62.8	65.9	70.1	77.3	86.8	93.5	100

- ✓ For Lodi (EI #23), % of EI = 93.5 – 48.8 = 44.7% of the R value.
- ✓ If the project lasted for more than one year, say from Jun. 14, 2017 – Dec. 31, 2018, the % EI would be 100% for the complete 2018 year, and 44.7% for the partial year or 144.7% of the R value.
- ✓ Every additional year is another 100%. The USEPA guidance document states that the EI cannot be greater than 100%; however, the State Water Board has made it clear that it can go beyond a 1-year time period.

## Step 3 – Find the Isoerodent Value for your project and calculate the R Value:

- ✓ Use Figure 4 in the Fact Sheet (page 7) or download the isoerodent kml file from the State Water Board’s ftp site or from <http://wqr-sw.com/newsletters.html> at the bottom of the Monthly Dirt archive list.
- ✓ Find your project’s location and, if necessary, interpolate the value. Yes, once again the map’s quality is poor and hard to read, so we suggest using the downloadable kml file. The interpolation is somewhat subjective.

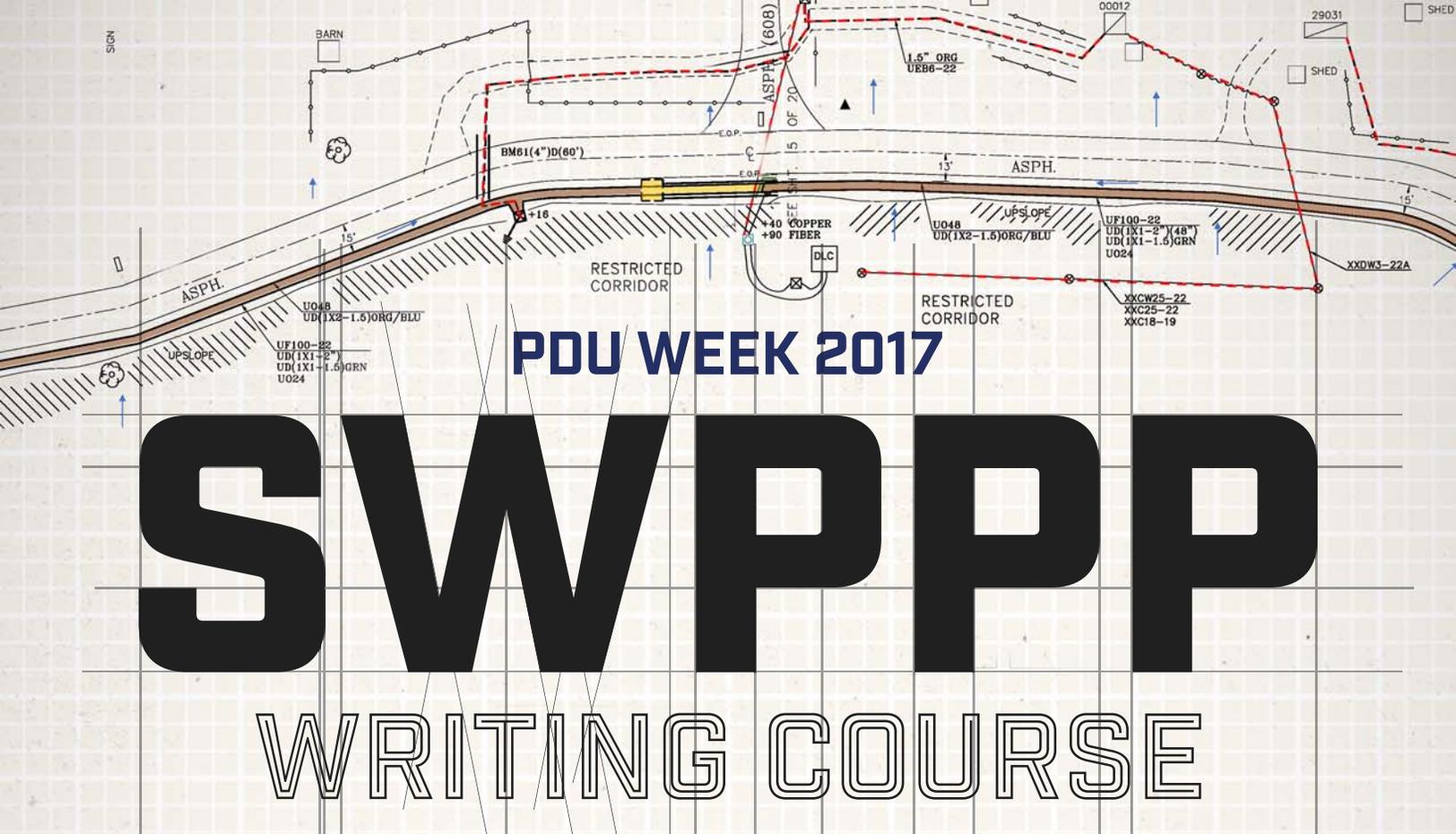
- ✓ For Lodi the isoerodent value is approx. 19 (interpolated).

- ✓ Therefore,

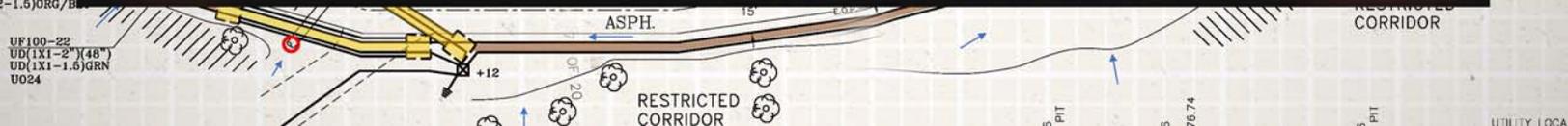
$$R = (44.7\% \times 19)$$

$$= 8.49 \text{ (not eligible for the waiver).}$$





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