

EPA Region 9 Finalizes Purported Expansion of NPDES Stormwater Regulation for Two Watersheds in Los Angeles County

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On November 20, 2024, the U.S. Environmental Protection Agency (EPA) Region 9 [published](#) in the Federal Register its [Final Designation](#) of stormwater discharges from commercial, industrial, and institutional (CII) properties consisting of five or more acres of impermeable surfaces in two watersheds in the Los Angeles County area: the Alamitos Bay/Los Cerritos Channel Watershed and the Dominguez Channel and Los Angeles/Long Beach Inner Harbor Watershed. Region 9's Final Designation is a purported exercise of EPA's "residual designation authority" (RDA) under section 402(p)(2)(E) of the Clean Water Act (CWA). The action responds to two September 15, 2015, petitions requesting action and [a federal court order](#) in *Los Angeles Waterkeeper v. Pruitt*, 320 F. Supp. 3d 1115 (C.D. Cal. 2018).

This expansion of stormwater regulation is a joint effort between EPA Region 9 and the Los Angeles Regional Water Quality Control Board (Regional Board). The Regional Board published an initial draft of the General Permit in 2022 for comment and a [revised version](#) earlier this year. The Regional Board has yet to publish a final General Permit and may do so soon. Information on the Regional Board's efforts to issue the General Permit is available on its [website](#).

EPA Region 9's Final Designation arrives shortly after [EPA Region 1's issuance of a Proposed Designation and draft General Permit](#) purporting to regulate stormwater discharges—also on the basis of RDA—from a vast array of CII properties across three watersheds in Massachusetts. Region 9's Final Designation is similar to Region 1's proposed action in many respects, including an interpretation of EPA's RDA authority that conflicts with the CWA's text and structure. Unlike Region 1's proposal, Region 9's designation of stormwater discharges is more limited in geographic scope and number of properties likely to be impacted (approximately 600 facilities).

If left unchallenged, both EPA Region 9's Final Designation and EPA Region 1's proposed actions stand to have broad implications by setting forth a roadmap for other EPA regions and authorized states to expand National Pollutant Discharge Elimination System (NPDES) permitting requirements to CII properties across the country.

The incoming Trump administration may reevaluate the Final Designation and consider rescinding it, but it may take some time for new EPA staffers to address this action. Moreover, rescinding the designation itself could take significant time and be overshadowed by higher administration priorities. In the interim, it will be critical for parties adversely affected by the Final Designation to expeditiously seek judicial review—and a stay or preliminary injunction—to protect their interests. Those interested in challenging the Final Designation should contact the authors to discuss how best to challenge EPA's action.

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