



2022 Update for Development of New Roads and Reconstruction/ Maintenance of Roads and Parking Lots

Information for Municipal Staff

Introduction

The San Francisco Bay Regional Water Board Quality Control Board reissued the Municipal Regional Stormwater Permit (MRP 3), and it went into effect July 1, 2022. Like the past stormwater permits, MRP 3 mandates stormwater control measures for specified development projects, including development of new roads, the reconstruction of existing of roads, and maintenance of pavement.

Key Changes Summarized in this Factsheet

- Requirements for New Road Construction
- Requirements for Road Reconstruction
- Requirements for Pavement Maintenance
- Effective Date of the Changes
- Alternative Compliance Pathways

Regulatory Background

In urban areas, stormwater washes pollutants and trash off impervious surfaces (e.g., roads and parking lots) into creeks and waterways. The impervious surfaces also prevent rainwater from infiltrating into the soil. MRP 3 mandates that municipalities use their land use planning authorities to require Low Impact Development (LID), which mimics drainage patterns of more natural landscapes. By using LID more stormwater soaks into and is filtered by the soil so that less ends up as runoff into creeks and waterways.



Bioretention Curb Extension in Union City

Key MRP 3 Changes

MRP 3 defines types of regulated projects and establishes thresholds in square feet (sf) of created or replaced impervious area for determining whether projects must implement numeric sizing of stormwater treatment systems. *MRP 3 removed exemptions previously allowed by the MRP and lowered the impervious area thresholds for other projects.*

New Roads, Sidewalks, and Trails

MRP 3 lowered the thresholds for new roads, sidewalks, trails, and roads to which travel lanes are added. If these projects create $\geq 5,000$ contiguous sf of impervious area, they are Regulated Projects. (See MRP Provision C.3.b.ii.4 [[pg. C.3-8](#)].)

Road Reconstruction

MRP 2 exempted most road reconstruction activities from the LID requirements. Under MRP 3, road reconstruction projects that create or replace ≥ 1 acre (contiguous) of impervious area are Regulated Projects. Utility trenches with an average width of ≥ 8 -ft are considered road reconstruction projects. (See MRP Provision C.3.b.ii.(5) [[pg. C.3-9](#)].)

Pavement Maintenance

Under MRP 2 most types of pavement maintenance activities were exempt from the LID requirements. MRP 3 continues to exempt many, but not of all these activities. Pavement maintenance that creates or replaces 5,000 sf (cumulative) or more of impervious area are Regulated Projects. (See MRP Provision C.3.b.ii.(1)(a)(iv) [[pg. C.3-4](#)].) Pavement overlays and coating activities remain exempt from C.3.

Regulated Pavement Maintenance and Road Reconstruction Activities

Removing and replacing asphalt or concrete pavement to the top of the base course or lower or repairing the pavement base are considered activities that replace impervious surfaces. LID requirements apply.

Table 1. Road and Maintenance Regulated Project Threshold Changes Summary

Regulated Project Category	MRP 2	MRP 3
New Roads, Sidewalks, and Trails	10,000 sf, contiguous	5,000 sf, contiguous
Reconstruction of existing roads, including sidewalks and bicycle lanes; and Utility trenching projects greater than 8 ft wide	Exempt	1 acre, contiguous
Maintenance of existing parking lots and other pavement	Exempt	5,000 sf, cumulative
See Table 2 for more details.		

Effective Date of Changes

The regulated project changes described above are **effective July 1, 2023**. Until then, the MRP 2 thresholds and exemptions remain in effect.

- Projects approved by June 30, 2023, are not subject to the MRP 3 requirements.
- Projects approved on or after July 1, 2023, must incorporate the MRP 3 LID requirements.

The processes to approve public projects differ for each agency. Consult with your stormwater program manager to determine how your agency complies with this MRP requirement.



Pervious Pavers Street in Berkeley

Alternative Compliance Pathways

MRP 3 provides an alternative compliance option that allows LID treatment at an offsite location. For this option you need to treat as much runoff onsite as feasible and the treat the remaining portion at an offsite project in the same watershed. Alternative compliance projects must be completed within three years after the end of construction of the Regulated Project. The timeframe may be extended up to five years with prior Regional Water Board approval. (See MRP Provision C.3.e.i. [pg. C.3-20].)

Additionally, severely constrain road reconstruction projects may qualify for alternative sizing criteria if they meet the conditions identified in the Guidance for Sizing Green Infrastructure Facilities in Streets Projects with companion analysis Green Infrastructure Facility Sizing for Non-Regulated Street Projects (June 2019).

Need More Information?

The Clean Water Program is in the process of planning brownbag sessions for municipal staff. Your stormwater program manager will provide details once these are scheduled. Additionally, the **C.3 Stormwater Technical Guidance** is being revised for MRP 3. The program anticipates the release of the new manual in early 2023.

You can download the MRP 3 from the Regional Water Board's website:

https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0018.pdf



Bioretention Curb Extension in Dublin

Clean Water Program: Protecting Alameda County Creeks, Wetlands and the Bay

A Consortium of Local Agencies – Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Union City, Alameda County, Alameda County Flood Control and Water Conservation District, Zone 7 Water Agency

Table 2. Road Construction and Maintenance Project Types and Threshold Comparison

Regulated Projects	MRP 2	MRP 3	Provision
New Roads, Sidewalks, and Trails include:			
New roads, including sidewalks and bike lanes	Included	Included	C.3.b.ii.(4)
Adding traffic lanes to an existing road	Included	Included	C.3.b.ii.(4)
New stand-alone trail projects 10 feet wide or wider with impervious surface	Included	Included	C.3.b.ii.(4)
Sidewalk gap closures, sidewalk replacement, ADA curb ramps not associated with a parcel-based project	Included	Included	C.3.b.ii.(3)
Road Reconstruction include:			
Reconstructing existing roads, including sidewalks and bicycle lanes	Exempt	1 acre ¹	C.3.b.ii.(5)
Utility trenching projects greater than 8 feet in width	Exempt	1 acre ¹	C.3.b.ii.(5)
Pavement Maintenance	Exempt	5,000 sf ²	C.3.b.ii.(1)(a)(iv)
Regulated Activities	MRP 2	MRP 3	Provision
Specific activities subject to MRP 3 LID requirements include:			
Upgrade from dirt to gravel (exempt if built to specification for pervious pavement system)	Included	Included	C.3.b.ii.(1)(b)(iii)
Upgrade from dirt/gravel to pavement (exempt if built to specification for pervious pavement system)	Included	Included	C.3.b.ii.(1)(b)(iii)
Removing/replacing asphalt or concrete to top of base course or lower	Exempt	Included	C.3.b.ii.(1)(b)(iii)
Repair of pavement base (i.e., base failure repair)	Exempt	Included	C.3.b.ii.(1)(b)(iii)
Extending roadway edge (e.g., lane widening or safety improvement)	Exempt	Included	C.3.b.ii.(1)(b)(iii)
Paving gravel or dirt roadway shoulder	Exempt	Included	C.3.b.ii.(1)(b)(iii)
Exempt Activities	MRP 2	MRP 3	Provision
Specific exemptions from MRP 3 LID requirements include:			
Pothole and square cut patching	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Overlay gravel on existing gravel	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Overlay asphalt or concrete on existing asphalt or concrete (no increase in area)	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Upgrade from chip seal or cape seal to asphalt or concrete (no increase in area)	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Shoulder grading	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Reshaping/regrading drainage	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Crack sealing	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)
Pavement preservation that does not expand road prism	Exempt	Exempt	C.3.b.ii.(1)(b)(ii)

Notes:

¹ Contiguous. Project areas interrupted by cross streets or intersections are considered contiguous.

² Cumulative. The threshold is for 5,000 sf of parking lot(s) or other pavement throughout the project site.