

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 2322 (Papan) – As Amended April 6, 2026

SUBJECT: Water discharge: commercial, industrial, or institutional sites

SUMMARY: Defines "commercial, industrial, or institutional site," for purposes of issuing permits for the discharge of stormwater from municipal separate sewer systems. Specifically, **this bill:**

- 1) Defines, for the purposes of issuing permits for the discharge of stormwater from municipal separate storm sewer systems (MS4s), "commercial, industrial, or institutional site" or "CII site" as a privately owned parcel or contiguous parcels of land that are commercial, industrial, or institutional based on the appropriate county tax assessor land use codes. Provides that for parcels with mixed use commercial and residential land use codes, a "CII site" is the commercial, institutional, or industrial portion of the mixed land use parcel. "CII site" does not include residential facilities of any type, including those located within a parcel assigned the land use category of mixed use.

EXISTING LAW:

- 1) Establishes the federal Clean Water Act (CWA) to regulate discharges of pollutants into the waters of the United States (U.S.) and to regulate quality standards for surface waters. (33 United States Code (USC) § 1251, et seq.)
- 2) Establishes, under the CWA, the National Pollutant Discharge Elimination System (NPDES) permit program, requiring the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) to prescribe waste discharge requirements that, among other things, regulate the discharge of pollutants into stormwater. (33 USC § 1342)
- 3) Requires operators, on and after October 1, 1994, for discharges composed entirely of stormwater, to obtain an NPDES permit under the CWA only if:
 - a) The discharge is from a small municipal separate storm sewer systems (MS4), as specified;
 - b) The discharge is a stormwater discharge associated with small construction activity;
 - c) The Director, or in states with approved NPDES programs, either the Director or the United States Environmental Protection Agency (US EPA) Regional Administrator, determines that stormwater controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutants of concern; or,
 - d) The Director, or in states with approved NPDES programs, either the Director or the US EPA Regional Administrator, determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a

significant contributor of pollutants to waters of the U.S. (40 Code of Federal Regulations § 122.26(a)(9)(i)(D))

- 4) Establishes the Porter-Cologne Water Quality Control Act (Porter-Cologne), which prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Board; declares that the health, safety, and welfare of people require there to be a statewide program for water quality control and that the statewide program for water quality control can be most effectively administered regionally, within a framework of statewide coordination and policy. (Water Code (WC) § 13000, et seq.)
- 5) Establishes the State Water Board and nine Regional Water Boards to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. (WC § 13100, et. seq.)
- 6) Prohibits the discharge of waste or pollutants to surface and ground waters unless the discharger obtains a permit from the State Water Board or a Regional Water Board. (WC § 13260, et seq.)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author,

"AB 2322 establishes a single, statewide definition of Commercial, Industrial, and Institutional (CII) facilities for municipal stormwater permits using existing county land use codes. Cities and counties currently operate under stormwater permits (MS4 permits) that require them to identify and inspect businesses and ensure stormwater controls are installed when sites are built or redeveloped. However, these existing permits rely on different MS4 permittees' interpretations of what is considered a regulated facility. As a result, identical businesses can face different inspection expectations and compliance requirements depending solely on where they operate. For example, a car wash may be included in one city's program but not in a neighboring jurisdiction. AB 2322 fixes this inconsistency by providing an objective, uniform standard that can be applied consistently across California. For businesses, that means clearer rules, more predictable planning, and a fair, level playing field statewide."

The NPDES Permit Program: As authorized by the federal CWA, the NPDES Permit Program controls water pollution by regulating point sources—or discrete conveyances such as pipes, or human-made ditches—that discharge pollutants into waters of the U.S. Examples of pollutants include, but are not limited to, rock, sand, dirt, and agricultural, industrial, and municipal waste. In California, implementation of the NPDES Permit Program has been delegated to the State Water Board and nine Regional Water Boards, which maintain regional jurisdiction within boundaries that are based on major watersheds. While the State Water Board has issued some NPDES permits, the Regional Water Boards issue the vast majority of NPDES permits in the state and ensure compliance with their permits through inspections, monitoring report reviews, and enforcement actions.

Because of their propensity to contain and mobilize pollutants, stormwater discharges are regulated through NPDES permits. The State Water Board oversees three statewide NPDES stormwater programs: the Industrial Stormwater Program, Construction Stormwater Program, and Municipal Stormwater Program. Below is a description of each:

- **Industrial Stormwater Program:** The Industrial General Permit (IGP) regulates industrial stormwater discharges and authorized non-stormwater discharges from industrial facilities in California. The IGP is called a "general permit" because many industrial facilities are covered by the same permit, but comply with its requirements at their individual industrial facilities. Industrial facilities such as manufacturers, landfills, mining, steam-generating electricity, hazardous waste facilities, transportation with vehicle maintenance, larger sewage and wastewater plants, recycling facilities, and oil and gas facilities are typically required to obtain IGP coverage;
- **Construction Stormwater Program:** Certain dischargers—those with projects that disturb one or more acres of soil, or projects that disturb less than one acre, but are part of a larger common plan of development that in total disturbs one or more acres—are required to obtain coverage under the "General Permit for Discharges of Stormwater Associated with Construction Activity" (Construction General Permit). Construction activities subject to this permit include clearing, grading, and disturbances to the ground such as stockpiling or excavation. They do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer; and,
- **Municipal Stormwater Program:** The State Water Board regulates stormwater discharges from MS4s throughout California. US EPA defines an MS4 as a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, or storm drains. Under Phase I of the Municipal Stormwater Program, Regional Water Boards have adopted NPDES permits to regulate discharges from MS4s serving municipalities with over 100,000 people; under Phase II, the State Water Board has issued a waste discharge requirement to regulate discharges from small MS4s serving municipalities with less than 100,000 people.

Federal action on pollution in two California watersheds: In response to petitions (submitted to Region 9 of the US EPA (Region 9) in 2015), a subsequent court case, and a 2018 District Court order, Region 9 is using its Residual Designation Authority to add requirements for certain stormwater sources that discharge into two watersheds in Los Angeles County: the Alamitos Bay/Los Cerritos Channel Watershed and the Dominguez Channel and Los Angeles/Long Beach Inner Harbor Watershed. The final designation is specifically designed to require privately-owned commercial, industrial, and institutional facilities to obtain NPDES permits for stormwater runoff. Region 9 states that both watersheds are impaired due to elevated levels of copper and zinc, and TMDLs have been established to define needed reductions of these pollutants, to restore water quality and beneficial uses of the watersheds. According to Region 9, in a November 2024 memo explaining the Final Designation: "the record demonstrates that stormwater discharges from the [commercial, industrial, and institutional] sources...contribute to violations of water quality standards...The Final Designation will require permit coverage for discharges from approximately 600 facilities and will significantly reduce discharges of

pollutants of concern, including metals." Once designated, these sites will be required to obtain coverage under an NPDES permit.

Region 9 is partnering with the Los Angeles Regional Water Quality Control Board (Los Angeles Regional Water Board), which is in the process of developing a new NPDES general permit, to provide coverage for all commercial, industrial, and institutional facilities in the two Los Angeles County watersheds designated by Region 9's action. Describing the rationale for a new permit, the Los Angeles Regional Water Board states on its website, "Storm Water—Commercial, Industrial and Institutional (CII) Permit" (last updated January 28, 2025):

"The Los Angeles Regional Water Board and US EPA are considering potential regulatory requirements for stormwater runoff from certain commercial, industrial, and institutional (CII) facilities in the Dominguez Channel/Greater Los Angeles and Long Beach Harbor Watershed and the Los Cerritos Channel/Alamitos Bay Watershed to reduce pollutant levels in stormwater runoff that flows from these facilities. These waterbodies are currently polluted by numerous chemicals, including copper and zinc, which can harm aquatic life, ecosystems, and human health. Impervious surfaces such as streets, parking lots, rooftops, and sidewalks collect a variety of pollutants."

A draft NPDES permit, released by the Los Angeles Regional Water Board, would apply to, among other things, stormwater discharges and authorized non-stormwater discharges from unpermitted commercial, industrial, and institutional sites with five or more acres of impervious surfaces.

This bill: AB 2322 defines "commercial, industrial, or institutional site" for the purposes of issuing permits for the discharge of stormwater from municipal separate sewer systems. Current law does not have a definition for "commercial, industrial, or institutional site."

Arguments in support: According to the California Coastkeeper Alliance,

"California's 12 MS4 stormwater permits each include requirements mandating stormwater capture whenever new development or significant redevelopment occurs; to reduce polluted runoff from newly created impervious surfaces before it reaches our waterways. Despite sharing the same underlying purpose, each MS4 permit defines "CII" differently. This inconsistency creates serious problems of implementation. A facility in one jurisdiction may be required to install stormwater capture while an identical facility in an adjacent county faces no such obligation—a disparity based solely on geography rather than the nature of the development. Municipalities struggle to determine which facilities within their jurisdiction are actually subject to post-construction requirements, making consistent enforcement difficult.

AB 2322 fixes this by establishing a single, uniform statewide definition of "CII site" grounded in objective county tax assessor land use codes. A CII site is defined as a privately owned parcel or contiguous parcels of land that are commercial, industrial, or institutional in character. For mixed-use parcels, only the commercial, industrial, or institutional portion is subject to CII obligations. Residential facilities of any type—including those within mixed-use developments—are explicitly excluded, protecting homeowners and renters from inadvertent inclusion. Importantly, AB 2322 does not expand the substantive scope of existing post-construction requirements; it simply standardizes which facilities those requirements cover."

Arguments in opposition: None on file.

Related legislation:

AB 1313 (Papan, 2025). Would have require the State Water Board to establish, as provided, a statewide commercial, industrial, and institutional National Pollutant Discharge Elimination System (NPDES) order to regulate stormwater and authorized non-stormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally-protected surface waters. This bill did not meet the house of origin deadline and died on the inactive file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Coastkeeper Alliance

Opposition

None on file.

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