

State Water Resources Control Board

October 16, 2026

SUBJECT: CONSTRUCTION SITE PREPARATION FOR THE HISTORIC EL NIÑO EVENT

The State Water Resources Control Board and Regional Water Quality Control Boards (collectively Water Boards) are notifying you to prepare for impacts of a strong and likely historic El Niño event identified in a Governor-declared state of emergency proclamation.

The National Oceanic and Atmospheric Administration is predicting a potentially historic El Niño event (a condition that occurs when a band of warm water develops in the Pacific Ocean that causes changes in rainfall) occurring during the winter of 2026-2027. This letter provides guidance for regulatory compliance with the Statewide Construction Stormwater General Permit (Permit)¹ for construction sites that may experience intense and higher than normal precipitation events due to the El Niño event.

All of the requirements of the Permit remain in effect during El Niño, including, but not limited to:

1. New Planned Construction Activity and Emergency Construction Activity

As required by the Permit, an entity or person planning to conduct construction activities is required to apply for and obtain Permit coverage for activities that disturb:

- One acre or more of land surface, or
- Less than one acre, and the project is part of a larger common plan of development or sale that disturbs one acre or more of land surface.

¹ [General Permit for Stormwater Discharges Associated with Construction Activities](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html);

https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/general_permit_reissuance.html

Per Permit Section III.A.3, in the case of a public emergency that requires immediate construction, an entity or person may proceed with construction provided that the entity or person:

- Provides the applicable Regional Water Quality Control Board (Regional Water Board) with a brief description of the emergency construction activity within five (5) days of construction initiation at the site, and
- Submits permit registration documents within thirty (30) days through the Stormwater Multiple Application and Report Tracking System (SMARTS).

Permit coverage is not required for the following activities:

- Cleanup,
- Debris removal activities, or
- Construction activities disturbing less than one acre of land surface if the activities are not part of a larger common plan of development or sale disturbing an acre or more of land surface.

2. Continuation of Existing Regulated Construction Activity

All active, regulated construction activities, including linear underground/overhead projects, with active regulatory coverage under the Permit (i.e. active Waste Discharge Identification Number [WDID]) are required to continue complying with Permit requirements consistent with the following guidance:

A. Visual Observations and Sample Collections Not Completed Due to Site Inaccessibility

Per Permit Attachments D and E, Permit Section III.B.1, visual observations and sample collections are required during scheduled site business hours and when site access is safe. Visual inspections and sample collections are not required during dangerous weather conditions, outside of scheduled site operating hours, or when the site is not accessible to personnel.

Dischargers must provide an explanation in the site's Annual Report if visual observations and sample collections are not completed based on the above justification.

B. Completed Visual Observations and Corrective Actions at Sites

Visual observations completed at construction sites that are safe to access shall include:

- An assessment of best management practices by a Qualified Stormwater Pollution Prevention Plan (SWPPP) Practitioner, or their trained delegate, and

- A plan describing the corrective actions, including any necessary changes for the Qualified SWPPP Developer to add to the SWPPP, for replacing and/or repairing damaged best management practices and stabilizing erodible areas.

The Qualified SWPPP Practitioner, or their trained delegate, shall assess the site, and include the following items with their inspection report:

- a) Evaluation and documentation, including photographs, of site conditions documenting:
 - Discharge locations,
 - Soil stabilization²,
 - Damaged best management practices or stormwater conveyance structures,
 - Areas on the site with problem areas of erosion.
- b) Location information and description of currently implemented best management practices, and
- c) Schedule for reinstallation, repair and/or addition of best management practices to manage runoff of construction pollutants.

C. Bypass of Damaged Treatment Best Management Practices

Bypass is the intentional diversion of waste streams from any portion of a treatment facility or system. Dischargers with damaged treatment best management practices must contact the Regional Water Board³ to discuss the applicability of the emergency bypass provisions in Permit Section VI.K. Dischargers shall update their Active Treatment System Plans or Passive Treatments Plans as applicable.

² See [CGP Review Issue 3](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/training/cgp_review_issue3.pdf) for guidance document on site stabilization, healthy soils, native seeds, and optimal moisture content:
https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/training/cgp_review_issue3.pdf

³ The Permit requires 14-day advanced notice to the Regional Water Quality Control Board for a needed treatment bypass. If the discharger is unable to notify the Regional Water Board in advance of a bypass due to an emergency situation where the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage, the Discharger shall submit written notification to the Regional Water Board within 14 days after the bypass.

D. Sampling and Numeric Action Level (NAL) Exceedances

The Permit requires Risk Level 2 and 3 Projects and Type 2 and 3 Linear Underground/Overhead Project Dischargers to collect, analyze, and report construction stormwater runoff sampling results even if the results are not representative of stormwater runoff due to construction activities.

If NALs are exceeded, an NAL Exceedance Report may be required in response to a Regional Water Board request, or a Discharger may voluntarily submit one as part of an Ad Hoc monitoring report. In either case, if the exceedance is not representative of normal construction activity site conditions, the report should explain the conditions at the site.

E. Dewatering

This Permit requires dischargers to implement BMPs to control the volume and velocity of dewatering discharges in Permit Section IV.M. Dischargers are required to minimize the discharge of pollutants from dewatering trenches and excavations through the implementation of BMPs. This Permit requires dischargers to implement BMPs to control the volume and velocity of dewatering discharges in Permit section IV.M. Dischargers are required to minimize the discharge of pollutants from dewatering trenches and excavations through the implementation of BMPs. Dischargers with dewatering activities subject to a separate National Pollutant Discharge Elimination System de minimis, or low threat discharger permit for dewatering activities, are to obtain coverage through those permits issued by the Water Boards. Attachment J of the Permit authorizes specific construction dewatering discharges and requires the dewatering activity to utilize outlet structures that withdraw water from the surface of the sediment basin or similar impoundment, unless infeasible.

A Dewatering Discharge Notification Guidance is available at https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction/docs/2022-cgp-dewatering-guidance.pdf

F. Inactive Constructions Sites

Dischargers with active Permit coverage planning to discontinue, inactivate, or suspend all construction activities for an undetermined time period (but at least 30 days) may per Permit Section III.G, file a Change of Information to revise their SWPPP. Dischargers with Active Permit coverage that intend to cease construction activities entirely may, per Permit Section III.H, submit a Notice of Termination to terminate Permit coverage, including the documentation required in

Permit Section III.H.2, demonstrating compliance with post-construction standards in Permit Section IV.N. In either case of either suspension or complete cessation of construction activities, the site must be stabilized prior to submitting a request.

Since the El Niño event has been predicted for quite some time, all rain-related unauthorized stormwater discharges to the environment will be evaluated to determine if appropriate maintenance and preparation steps for El Niño were taken. Failure to demonstrate that adequate preventative measures were taken, which could have minimized or prevented known or anticipated wet weather problems and resulted in an unauthorized discharge of stormwater to the environment, may result in enforcement action.

For further information regarding Permit requirements, please visit the State Water Board [Construction Stormwater Program webpage](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html) (https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html).

On behalf of the Water Boards and the residents of the state of California, I appreciate your attention to this matter. For general questions regarding this letter, please contact the Water Boards, Stormwater Help Desk at stormwater@waterboards.ca.gov.

For specific questions, please contact your local Regional Water Board. A list of the Regional Water Board contacts is available at https://www.waterboards.ca.gov/water_issues/programs/stormwater/contact.html.

To ensure you receive the latest updates please ensure you are subscribed to the "Storm Water Construction Permitting Issues" email contact list by navigating to our subscription page https://www.waterboards.ca.gov/resources/email_subscriptions/ entering your email address and selecting the appropriate box.

Sincerely,



Phillip Crader, Deputy Director
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cc: (via email)

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