

AMENDED IN SENATE APRIL 21, 2025

AMENDED IN SENATE APRIL 8, 2025

SENATE BILL

No. 601

Introduced by Senator Allen
(Coauthor: Senator Gonzalez)

(Coauthors: Assembly Members Connolly, Kalra, and Rogers)

February 20, 2025

An act to amend Sections 16000.3 and 16100.3 of the Business and Professions Code, and to amend Sections 13170, 13263, 13350, 13370, 13372, 13373, 13374, 13376, 13383.5, and 13385.1 of, to amend the heading of Chapter 5.5 (commencing with Section 13370) of Division 7 of, to add Sections 13052, 13164.5, 13250, 13251, 13352, and 13377.5 to, and to add Article 8 (commencing with Section 13366) to Chapter 5 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, as amended, Allen. Water: waste discharge.

(1) Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality and prescribe waste discharge requirements in accordance with the Porter-Cologne Water Quality Control Act (act) and the National Pollutant Discharge Elimination System (NPDES) permit program. Existing law requires, when applying to a city or a county for an initial business license, equivalent instrument, or permit, or renewal thereof, a person who conducts a business operation that is a regulated industry, as defined, to demonstrate enrollment with the NPDES permit program by providing specified information, under penalty of perjury, on the application. Existing law includes in this specified information, among

other things, the Standard Industrial Classification Codes for the business, and a Waste Discharger Identification number (WDID), as specified.

This bill would revise the above-described requirement to demonstrate enrollment with NPDES to instead require demonstrating enrollment with NPDES or the Waste Discharge Requirements (WDR) permit programs by providing the specified information. The bill would require, when applying to a city or a county for a building or construction permit, a person who conducts a business operation that is a regulated industry and seeks permission for construction activities over one acre to demonstrate enrollment with the NPDES or WDR permit programs by providing specified information under penalty of perjury on the initial building or construction permit application, or renewal thereof. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would include in this specified information, among other things, the total planned disturbed acreage and WDID or WDID application number issued for the construction or land disturbance activity by the State Water Resources Control Board. By increasing the duties of local officials to administer licenses and permits, the bill would impose a state-mandated local program.

(2) Under the act, the State Water Resources Control Board is authorized to adopt water quality control plans for waters for which quality standards are required by the federal Clean Water Act, as specified, and that in the event of conflict, those plans supersede regional water quality control plans for the same waters.

This bill would delete the limitation on the state board's authorization, and instead would authorize the state board to adopt water quality control plans for any waters of the state, which would include nexus waters, which the bill would define as all waters of the state that are not also navigable, except as specified. The bill would require any water quality standard applicable to nexus waters, which was submitted to, and approved by, or is awaiting approval by, the United States Environmental Protection Agency or the state board as of January 19, 2025, to remain in effect, except where the state board, regional board, or United States Environmental Protection Agency adopts a more stringent standard. The bill would require the state board and regional boards to include nexus waters in all processes pursuant to the federal Clean Water Act, including, but not limited to, the California Integrated Report and the establishment of total maximum daily loads, as specified.

(3) Existing law requires a regional board, after any necessary hearing, to prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed and sets forth what the requirements are to include.

This bill would require the above-described discharge requirements to, among other things, implement state policies for water quality control.

(4) The act authorizes the imposition of civil penalties for violations of certain waste discharge requirements, including violation of a cease and desist order or a cleanup and abatement order, and requires that penalties imposed pursuant to these provisions be deposited into the Waste Discharge Permit Fund, to be expended by the state board, upon appropriation by the Legislature, for specified purposes related to water quality. For violations of certain other waste discharge requirements, the act imposes specified civil penalties, the proceeds of which are deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account.

This bill would require, commencing January 1, 2026, and each calendar year thereafter, the state board's executive director to adjust civil monetary penalties, as specified, including the civil penalties for the above-described provisions. By increasing the amount of penalties deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account, the bill would make an appropriation.

(5) Existing law generally provides for enforcement and implementation of the act.

This bill would authorize an action to be brought in superior court by a person in the public interest to enforce federal requirements, state standards incorporated by or adopted under this division applicable to nexus waters, or other waste discharge requirements applicable to discharges from any point source to nexus waters, as specified.

(6) The act provides various provisions related to waste discharge to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto. The act defines the terms "navigable waters," "administrator," "pollutants," "biological monitoring," "discharge," and "point sources" as having the same meaning as in the Federal Water Pollution Control Act.

This bill would provide that “waste discharge requirements” include waste discharge requirements issued for discharges to nexus waters, and “discharge” includes discharges from any point source to nexus waters. The bill would provide that for purposes of compliance with the Federal Water Pollution Control Act, nexus waters shall be treated as though they are navigable waters and navigable waters of the United States. The bill would require waste discharge requirements adopted or amended for discharges to nexus waters to be adopted pursuant to and in accordance with the requirements of provisions implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, as specified.

(7) The act requires a person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge, except as specified. The act prohibits the discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits.

This bill would require a person to file a report for discharges to nexus waters. The bill would apply the above-described prohibition to nexus waters.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 16000.3 of the Business and Professions
- 2 Code is amended to read:
- 3 16000.3. (a) When applying to a city for an initial business
- 4 license, equivalent instrument, or permit, or renewal thereof, a
- 5 person who conducts a business operation that is a regulated
- 6 industry, as defined in Section 13383.5 of the Water Code, shall

1 demonstrate enrollment with the National Pollutant Discharge
2 Elimination System (NPDES) or the Waste Discharge
3 Requirements (WDR) permit programs by providing all of the
4 following information, under penalty of perjury, on the initial
5 business license, equivalent instrument, or permit, or renewal
6 thereof, application:

7 (1) The name and location of facilities operated by the person
8 who conducts that business.

9 (2) All primary Standard Industrial Classification Codes, as
10 defined in Section 25244.14 of the Health and Safety Code, for
11 the business.

12 (3) Any of the following for each facility operated by the person
13 of that business:

14 (A) The stormwater permit number, known as the Waste
15 Discharger Identification number (WDID), issued for the facility
16 by the State Water Resources Control Board.

17 (B) The WDID application number issued for the facility by
18 the State Water Resources Control Board.

19 (C) The “notice of nonapplicability” (NONA) identification
20 number issued for the facility by the State Water Resources Control
21 Board.

22 (D) The “no exposure certification” (NEC) identification number
23 issued for the facility by the State Water Resources Control Board.

24 (b) Prior to the issuance or renewal of the business license,
25 equivalent instrument, or permit, the city shall determine whether
26 any of the primary Standard Industrial Classification Codes are
27 applicable to a General Permit for Storm Water Discharges
28 Associated with Industrial Activities Excluding Construction
29 Activities, as referenced in Section 13383.5 of the Water Code,
30 and if applicable, the city shall confirm that the WDID, WDID
31 application number, NONA, or NEC corresponds to the business
32 requesting the initial business license or business license renewal.
33 To determine whether any of the primary Standard Industrial
34 Classification Codes are applicable to a General Permit for Storm
35 Water Discharges Associated with Industrial Activities Excluding
36 Construction Activities, as referenced in Section 13383.5 of the
37 Water Code, the city may use information provided by the State
38 Water Resources Control Board, including information posted
39 pursuant to Section 13383.10 of the Water Code for these purposes.
40 To confirm the WDID, WDID application number, NONA, or

1 NEC, the city shall only need to keep record of the applicable
2 documentation.

3 (c) When applying to a city for a building or construction permit,
4 or renewal thereof, a person who conducts a business operation
5 that is a regulated industry, as defined in Section 13383.5 of the
6 Water Code, and seeks permission for construction activities over
7 one acre shall demonstrate enrollment with the NPDES or WDR
8 permit programs by providing all of the following information,
9 under penalty of perjury, on the initial building or construction,
10 or renewal thereof, application:

11 (1) The company name and building or construction site name
12 or address.

13 (2) The total planned disturbed acreage.

14 (3) The WDID or WDID application number issued for the
15 construction or land disturbance activity by the State Water
16 Resources Control Board.

17 (d) Before the issuance or renewal of a building or construction
18 permit, license, or equivalent instrument that authorizes
19 construction or land disturbance over one acre, the city shall
20 confirm that the construction company has a valid WDID or WDID
21 application number. To confirm the WDID or WDID application
22 number, the city shall only need to keep a record of the applicable
23 documentation.

24 (e) The city shall transfer compliance information received in
25 subdivisions (a) and (c) to the State Water Resources Control Board
26 as requested by the board. The city shall make the identification
27 number provided in the applicable documentation available to the
28 public upon request in a manner consistent with the procedures of
29 the California Public Records Act (Division 10 (commencing with
30 Section 7920.000) of Title 1 of the Government Code).

31 (f) For business license, equivalent instrument, or permit
32 renewals, a city may develop a provisional license procedure that
33 provides businesses three months to comply with the requirements
34 of this section.

35 (g) “City” includes a charter city and a charter city and county.

36 (h) This section shall apply to applications for initial business
37 licenses, equivalent instruments, or permits, including building or
38 construction permits, and renewals thereof, submitted on and after
39 January 1, 2020.

1 (i) This section shall not apply to a city that does not issue or
2 renew, or have an application process for issuing or renewing,
3 business licenses, equivalent instruments, permits that include a
4 business license, or building or construction permits.

5 (j) This section shall not be construed to impose any additional
6 liability on a city under the NPDES or WDR permit programs for
7 nonenrollment under a General Permit for Storm Water Discharges
8 Associated with Industrial Activities Excluding Construction
9 Activities by a person who conducts a business operation that is
10 a regulated industry, as defined in Section 13383.5 of the Water
11 Code, or consistent with Section 13374 of the Water Code
12 associated with construction and land disturbance activities.

13 (k) For purposes of this section, a business license, equivalent
14 instrument, or permit includes a business license, equivalent
15 instrument, or permit issued solely for the purpose of raising
16 revenue.

17 SEC. 2. Section 16100.3 of the Business and Professions Code
18 is amended to read:

19 16100.3. (a) When applying to a county for an initial business
20 license, equivalent instrument, or permit, or business renewal
21 thereof, a person who conducts a business operation that is a
22 regulated industry, as defined in Section 13383.5 of the Water
23 Code, shall demonstrate enrollment with the National Pollutant
24 Discharge Elimination System (NPDES) or the Waste Discharge
25 Requirements (WDR) permit programs by providing all of the
26 following information, under penalty of perjury, on the initial
27 business license, equivalent instrument, or permit, or renewal
28 thereof, application:

29 (1) The name and location of facilities operated by the person
30 who conducts that business.

31 (2) All primary Standard Industrial Classification Codes, as
32 defined in Section 25244.14 of the Health and Safety Code, for
33 the business.

34 (3) Any of the following for each facility operated by the person
35 of that business:

36 (A) The stormwater permit number, known as the Waste
37 Discharger Identification number (WDID), issued for the facility
38 by the State Water Resources Control Board.

39 (B) The WDID application number issued for the facility by
40 the State Water Resources Control Board.

1 (C) The “notice of nonapplicability” (NONA) identification
2 number issued for the facility by the State Water Resources Control
3 Board.

4 (D) The “no exposure certification” (NEC) identification number
5 issued for the facility by the State Water Resources Control Board.

6 (b) Prior to the issuance or renewal of the business license,
7 equivalent instrument, or permit, the county shall determine
8 whether any of the primary Standard Industrial Classification
9 Codes are applicable to a General Permit for Storm Water
10 Discharges Associated with Industrial Activities Excluding
11 Construction Activities, as referenced in Section 13383.5 of the
12 Water Code, and if applicable, the county shall confirm that the
13 WDID, WDID application number, NONA, or NEC corresponds
14 to the business requesting the initial business license or business
15 license renewal. To determine whether any of the primary Standard
16 Industrial Classification Codes are applicable to a General Permit
17 for Storm Water Discharges Associated with Industrial Activities
18 Excluding Construction Activities, as referenced in Section 13383.5
19 of the Water Code, the county may use information provided by
20 the State Water Resources Control Board, including information
21 posted pursuant to Section 13383.10 of the Water Code for these
22 purposes. To confirm the WDID, WDID application number,
23 NONA, or NEC, the county shall only need to keep record of the
24 applicable documentation.

25 (c) When applying to a county for a building or construction
26 permit, or renewal thereof, a person who conducts a business
27 operation that is a regulated industry, as defined in Section 13383.5
28 of the Water Code, and seeks permission for construction activities
29 over one acre shall demonstrate enrollment with the NPDES or
30 WDR permit programs by providing all of the following
31 information, under penalty of perjury, on the initial building or
32 construction, or renewal thereof, application:

33 (1) The company name and building or construction site name
34 or address.

35 (2) The total planned disturbed acreage.

36 (3) The WDID or WDID application number issued for the
37 construction or land disturbance activity by the State Water
38 Resources Control Board.

39 (d) Before the issuance or renewal of a building or construction
40 permit, license, or equivalent instrument that authorizes

1 construction or land disturbance over one acre, the county shall
2 confirm that the construction company has a valid WDID or WDID
3 application number. To confirm the WDID or WDID application
4 number, the county shall only need to keep a record of the
5 applicable documentation.

6 (e) The county shall transfer compliance information received
7 in subdivisions (a) and (c) to the State Water Resources Control
8 Board as requested by the board. The county shall make the
9 identification number provided in the applicable documentation
10 available to the public upon request in a manner consistent with
11 the procedures of the California Public Records Act (Division 10
12 (commencing with Section 7920.000) of Title 1 of the Government
13 Code).

14 (f) For business license, equivalent instrument, or permit
15 renewals, a county may develop a provisional license procedure
16 that provides businesses three months to comply with the
17 requirements of this section.

18 (g) “County” includes a charter county and a charter city and
19 county.

20 (h) This section shall apply to applications for initial business
21 licenses, equivalent instruments, or permits, including building or
22 construction permits, and renewals thereof, submitted on and after
23 January 1, 2020.

24 (i) This section shall not apply to a county that does not issue
25 or renew, or have an application process for issuing or renewing,
26 business licenses, equivalent instruments, permits that include a
27 business license, or building or construction permits.

28 (j) This section shall not be construed to impose any additional
29 liability on a county under the NPDES or WDR permit programs
30 for nonenrollment under a General Permit for Storm Water
31 Discharges Associated with Industrial Activities Excluding
32 Construction Activities by a person who conducts a business
33 operation that is a regulated industry, as defined in Section 13383.5
34 of the Water Code, or consistent with Section 13374 of the Water
35 Code, associated with construction and land disturbance activities.

36 (k) For purposes of this section, a business license, equivalent
37 instrument, or permit includes a business license, equivalent
38 instrument, or permit issued solely for the purpose of raising
39 revenue.

SEC. 3. Section 13052 is added to the Water Code, immediately following Section 13051, to read:

13052. As used in this division:

(a) “Federal standards” means federal laws or federal regulations implementing the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), including, but not limited to, water quality standards, effluent limitations, and drinking water standards in effect as of January 19, 2025. If, after January 19, 2025, those federal laws or regulations are modified to set a more stringent requirement, the more stringent requirements shall apply.

(b) “Nexus waters” means all waters of the state that are not also navigable waters, as defined in Section 13373, except for the following waters of the state:

(1) Any waters of the state that were determined to be nonjurisdictional for purposes of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251, et seq.) by either the United States Environmental Protection Agency or a United States Army Corps of Engineers approved jurisdictional determination or verified aquatic resource delineation report prior to May 25, 2023.

(2) Nonwetland tributaries that are tributary only to a water of the state that was determined to be nonjurisdictional pursuant to paragraph (1).

(3) A wetland water of the state that is adjacent to, adjoining, or otherwise hydraulically connected only to a water of the state that was determined to be nonjurisdictional pursuant to paragraph (1).

(4) A wetland water of the state that is not adjacent to, adjoining, or otherwise hydraulically connected to any nonwetland waters of the state.

(5) Groundwater.

(6) Waste treatment systems, including treatment ponds or lagoons, designed to meet the requirements of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251, et seq.).

(7) Prior converted cropland designated by the United States Secretary of Agriculture.

(8) Ditches, including roadside ditches, excavated wholly in and draining only dry land and that do not carry a relatively permanent flow of water.

(9) Artificially irrigated areas that would revert to dry land if the irrigation ceased.

1 (10) Artificial lakes or ponds created by excavating or diking
2 dry land to collect and retain water and that are used exclusively
3 for purposes such as stock watering, irrigation, settling basins, or
4 rice growing.

5 (11) Artificial reflecting or swimming pools or other small
6 ornamental bodies of water created by excavating or diking dry
7 land to retain water for primarily aesthetic reasons.

8 (12) Water-filled depressions created in dry land incidental to
9 construction activity and pits excavated in dry land for the purpose
10 of obtaining fill, sand, or gravel unless and until the construction
11 or excavation operation is abandoned.

12 (13) Swales and erosional features characterized by low-volume,
13 infrequent, or short-duration flow.

14 SEC. 4. Section 13164.5 is added to the Water Code, to read:

15 13164.5. The state board shall include nexus waters in all
16 processes pursuant to the federal Clean Water Act (33 U.S.C. Sec.
17 1313(d)), including, but not limited to, the California Integrated
18 Report and the establishment of total maximum daily loads.
19 California Integrated Report listings and total maximum daily
20 loads listed, established, or in process for nexus waters prior to
21 January 19, 2025, shall continue in effect or development.

22 SEC. 5. Section 13170 of the Water Code is amended to read:

23 13170. The state board may adopt water quality control plans
24 in accordance with the provisions of Sections 13240 to 13244,
25 inclusive. Those plans, when adopted, supersede any regional
26 water quality control plans for the same waters to the extent of any
27 conflict.

28 SEC. 6. Section 13250 is added to the Water Code, to read:

29 13250. Any water quality standard applicable to nexus waters,
30 which was submitted to, and approved by, or is awaiting approval
31 by, the United States Environmental Protection Agency or the state
32 board as of January 19, 2025, shall remain in effect, except where
33 the state board, regional board, or United States Environmental
34 Protection Agency adopts a more stringent standard.

35 SEC. 7. Section 13251 is added to the Water Code, to read:

36 13251. The regional boards shall include nexus waters in all
37 processes pursuant to the federal Clean Water Act (33 U.S.C. Sec.
38 1313(d)), including, but not limited to, the California Integrated
39 Report and the establishment of total maximum daily loads.
40 California Integrated Report listings and total maximum daily

1 loads listed, established, or in process for nexus waters prior to
2 January 19, 2025, shall continue in effect or development.

3 SEC. 8. Section 13263 of the Water Code is amended to read:

4 13263. (a) (1) The regional board, after any necessary hearing,
5 shall prescribe requirements as to the nature of any proposed
6 discharge, existing discharge, or material change in an existing
7 discharge, except discharges into a community sewer system, with
8 relation to the conditions existing in the disposal area or receiving
9 waters upon, or into which, the discharge is made or proposed.

10 The requirements shall implement any relevant water quality
11 control plans and state policies for water quality control that have
12 been adopted, and shall take into consideration the past, present,
13 and probable future beneficial uses to be protected, the water
14 quality objectives reasonably required for that purpose, other waste
15 discharges, the provisions of Section 13241, and the need to prevent
16 nuisance. In the case of discharges to nexus waters, the
17 requirements shall implement the relevant federal standards.

18 (2) For purposes of discharges from any point source, as defined
19 in Section 13373, to nexus waters, the provisions of Section 13241
20 do not need to be considered, and the requirements for those
21 discharges shall implement the relevant federal standards, which
22 shall control to the extent there is a conflict.

23 (b) A regional board, in prescribing requirements, need not
24 authorize the utilization of the full waste assimilation capacities
25 of the receiving waters.

26 (c) The requirements may contain a time schedule, subject to
27 revision in the discretion of the board.

28 (d) The regional board may prescribe requirements although no
29 discharge report has been filed.

30 (e) Upon application by any affected person, or on its own
31 motion, the regional board may review and revise requirements.
32 All requirements shall be reviewed periodically.

33 (f) The regional board shall notify in writing the person making
34 or proposing the discharge or the change therein of the discharge
35 requirements to be met. After receipt of the notice, the person so
36 notified shall provide adequate means to meet the requirements.

37 (g) No discharge of waste into the waters of the state, whether
38 or not the discharge is made pursuant to waste discharge
39 requirements, shall create a vested right to continue the discharge.

1 All discharges of waste into waters of the state are privileges, not
2 rights.

3 (h) The regional board may incorporate the requirements
4 prescribed pursuant to this section into a master recycling permit
5 for either a supplier or distributor, or both, of recycled water.

6 (i) The state board or a regional board may prescribe general
7 waste discharge requirements for a category of discharges if the
8 state board or that regional board finds or determines that all of
9 the following criteria apply to the discharges in that category:

10 (1) The discharges are produced by the same or similar
11 operations.

12 (2) The discharges involve the same or similar types of waste.

13 (3) The discharges require the same or similar treatment
14 standards.

15 (4) The discharges are more appropriately regulated—~~under~~
16 *pursuant to* general discharge requirements than individual
17 discharge requirements.

18 (j) The state board, after any necessary hearing, may prescribe
19 waste discharge requirements in accordance with this section.

20 SEC. 9. Section 13350 of the Water Code is amended to read:

21 13350. (a) A person who violates a cease and desist order,
22 cleanup and abatement order, waste discharge requirement, waiver
23 condition, certification, or other order or prohibition issued,
24 reissued, or amended by a regional board or the state board, or
25 causes or permits any oil or any residuary product of petroleum
26 to be deposited into or on any of the waters of the state, except in
27 accordance with waste discharge requirements or other actions or
28 provisions of this division, shall be liable civilly, and remedies
29 may be proposed, in accordance with subdivision (d) or (e).

30 (b) (1) A person who, without regard to intent or negligence,
31 causes or permits a hazardous substance to be discharged in or on
32 any of the waters of the state, except in accordance with waste
33 discharge requirements or other provisions of this division, shall
34 be strictly liable civilly in accordance with subdivision (d) or (e).

35 (2) For purposes of this subdivision, the term “discharge”
36 includes only those discharges for which Section 13260 directs
37 that a report of waste discharge shall be filed with the regional
38 board.

39 (3) For purposes of this subdivision, the term “discharge” does
40 not include an emission excluded from the applicability of Section

1 311 of the federal Clean Water Act (33 U.S.C. Sec. 1321) pursuant
2 to United States Environmental Protection Agency regulations
3 interpreting Section 311(a)(2) of the federal Clean Water Act (33
4 U.S.C. Sec. 1321(a)(2)).

5 (c) A person shall not be liable under subdivision (b) if the
6 discharge is caused solely by any one or combination of the
7 following:

8 (1) An act of war.

9 (2) An unanticipated grave natural disaster or other natural
10 phenomenon of an exceptional, inevitable, and irresistible
11 character, the effects of which could not have been prevented or
12 avoided by the exercise of due care or foresight.

13 (3) Negligence on the part of the state, the United States, or any
14 department or agency thereof. However, this paragraph shall not
15 be interpreted to provide the state, the United States, or any
16 department or agency thereof a defense to liability for any
17 discharge caused by its own negligence.

18 (4) An intentional act of a third party, the effects of which could
19 not have been prevented or avoided by the exercise of due care or
20 foresight.

21 (5) Any other circumstance or event that causes the discharge
22 despite the exercise of every reasonable precaution to prevent or
23 mitigate the discharge.

24 (d) The court may impose civil liability either on a daily basis
25 or on a per gallon basis, but not on both.

26 (1) The civil liability on a daily basis shall not exceed fifteen
27 thousand dollars (\$15,000) for each day the violation occurs.

28 (2) The civil liability on a per gallon basis shall not exceed
29 twenty dollars (\$20) for each gallon of waste discharged.

30 (e) The state board or a regional board may impose civil liability
31 administratively pursuant to Article 2.5 (commencing with Section
32 13323) either on a daily basis or on a per gallon basis, but not on
33 both.

34 (1) The civil liability on a daily basis shall not exceed five
35 thousand dollars (\$5,000) for each day the violation occurs.

36 (A) When there is a discharge, and a cleanup and abatement
37 order is issued, except as provided in subdivision (f), the civil
38 liability shall not be less than five hundred dollars (\$500) for each
39 day in which the discharge occurs and for each day the cleanup
40 and abatement order is violated.

1 (B) When there is no discharge, but a cease and desist order or
2 cleanup and abatement order issued by the regional board is
3 violated, except as provided in subdivision (f), the civil liability
4 shall not be less than one hundred dollars (\$100) for each day in
5 which the violation occurs.

6 (2) The civil liability on a per gallon basis shall not exceed ten
7 dollars (\$10) for each gallon of waste discharged.

8 (f) A regional board shall not administratively impose civil
9 liability in accordance with paragraph (1) of subdivision (e) in an
10 amount less than the minimum amount specified, unless the
11 regional board makes express findings setting forth the reasons
12 for its action based upon the specific factors required to be
13 considered pursuant to Section 13327.

14 (g) The Attorney General, upon request of a regional board or
15 the state board, shall petition the superior court to impose, assess,
16 and recover the sums. Except in the case of a violation of a cease
17 and desist order, a regional board or the state board shall make the
18 request only after a hearing, with due notice of the hearing given
19 to all affected persons. In determining the amount to be imposed,
20 assessed, or recovered, the court shall be subject to Section 13351.

21 (h) Article 3 (commencing with Section 13330) and Article 6
22 (commencing with Section 13360) apply to proceedings to impose,
23 assess, and recover an amount pursuant to this article.

24 (i) A person who incurs any liability established under this
25 section shall be entitled to contribution for that liability from a
26 third party, in an action in the superior court and upon proof that
27 the discharge was caused in whole or in part by an act or omission
28 of the third party, to the extent that the discharge is caused by the
29 act or omission of the third party, in accordance with the principles
30 of comparative fault.

31 (j) Remedies under this section are in addition to, and do not
32 supersede or limit, any and all other remedies, civil or criminal,
33 except that no liability shall be recoverable under subdivision (a)
34 for a violation for which liability is recovered under Section 13268
35 or under subdivision (b) for any discharge for which liability is
36 recovered under Section 13385.

37 (k) Notwithstanding any other law, all funds generated by the
38 imposition of liabilities pursuant to this section shall be deposited
39 into the Waste Discharge Permit Fund. These moneys shall be
40 separately accounted for, and shall be expended by the state board,

1 upon appropriation by the Legislature, to assist regional boards,
2 and other public agencies with authority to clean up waste or abate
3 the effects of the waste, in cleaning up or abating the effects of the
4 waste on waters of the state, or for the purposes authorized in
5 Section 13443, or to assist in implementing Chapter 7.3
6 (commencing with Section 13560).

7 SEC. 10. Section 13352 is added to the Water Code, to read:

8 13352. (a) Commencing January 1, 2026, and each calendar
9 year thereafter, the state board's executive director shall adjust
10 civil monetary penalties in accordance with this section.

11 (b) The adjustment for inflation pursuant to this section shall
12 be determined by increasing the maximum civil monetary penalty
13 or the range of minimum and maximum civil monetary penalties,
14 as applicable, for each civil monetary penalty by the cost-of-living
15 adjustment. Any increase determined pursuant to this subdivision
16 shall be rounded to the nearest multiple of one dollar (\$1).

17 (c) For purposes of subdivision (b), "cost-of-living adjustment"
18 means the percentage, if any, for each civil monetary penalty by
19 which the Consumer Price Index for the month of October
20 preceding the date of the adjustment exceeds the Consumer Price
21 Index for the month of October one year before the month of
22 October preceding the date of the adjustment.

23 (d) The cost-of-living adjustment described in subdivision (b)
24 shall be applied to the amount of the civil monetary penalty as it
25 was most recently established or adjusted.

26 (e) The amount of the increase in a civil monetary penalty under
27 subdivision (a) shall not exceed 150 percent of the amount of that
28 civil monetary penalty from the previous year, except for the first
29 adjustment.

30 (f) Any increase under this section in a civil monetary penalty
31 shall apply only to civil monetary penalties, including those whose
32 associated violation predated that increase, which are assessed
33 after the date the increase takes effect.

34 (g) For purposes of this section, "civil monetary penalties"
35 means the civil penalty or liability provided for in Sections 13261,
36 13265, 13268, 13308, 13350, 13385, 13385.1, 13399.33, 13497,
37 13498, 13499, 13529.4, 13611, 13627.1, 13627.2, and 13627.3.

38 SEC. 11. Article 8 (commencing with Section 13366) is added
39 to Chapter 5 of Division 7 of the Water Code, to read:

Article 8. Citizen Enforcement

13366. (a) An action may be brought in superior court by a person in the public interest to enforce federal requirements, state standards incorporated by or adopted under this division applicable to nexus waters, or other waste discharge requirements applicable to discharges from any point source to nexus waters, each to the extent a cause of action was available pursuant to Section 1365 of Title 33 of the United States Code and implementing regulations prior to May 25, 2023.

(b) At least 60 days before initiating an action pursuant to this section, the person who intends to initiate the action shall provide a written notice of the alleged violation to the alleged violator, the state board, the Attorney General, the applicable regional board, and a district attorney, county counsel, and prosecutor in whose jurisdiction the violation is alleged to have occurred.

(c) A civil monetary penalty action shall not be commenced pursuant to this section if the state board, the Attorney General, a regional board, a district attorney, a city attorney, a county counsel, or a prosecutor in whose jurisdiction the violation is alleged to have occurred has commenced, and is diligently prosecuting, a civil or criminal judicial enforcement proceeding against the alleged violator for the same violations noticed pursuant to subdivision (b).

(d) Upon filing the action, the complainant shall notify the Attorney General that the action has been filed.

(e) The court may award costs of litigation, including reasonable attorney's and expert witness fees, to any prevailing or substantially prevailing plaintiff, whenever the court determines that award is appropriate for an action brought pursuant to this section. Attorney's fees awarded under this section shall be awarded pursuant to Section 1021.5 of the Code of Civil Procedure.

(f) Civil penalties that may be imposed by a superior court for an action brought pursuant to this section are equivalent in value to penalties available for citizen suits brought under the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) and its implementing regulations. Notwithstanding any law requiring or authorizing higher penalties, civil penalties assessed pursuant to this section shall not exceed the civil penalty levels under Part 19 (commencing with Section 19.1) of Subchapter A of Chapter 1 of

1 Title 40 of the Code of Federal Regulations. Penalties assessed
2 and recovered in a civil action brought pursuant to this section
3 shall be deposited into the Waste Discharge Permit Fund and
4 separately accounted for in that fund. Those moneys shall be
5 expended by the state board, upon appropriation by the Legislature,
6 to assist regional boards, and other public agencies with authority
7 to clean up waste or abate the effects of the waste, in cleaning up
8 or abating the effects of the waste on waters of the state or for the
9 purposes authorized in Section 13443. This subdivision shall not
10 apply to settlement agreements or consent decrees.

11 (g) This section does not limit other remedies and protections
12 available under state or federal law.

13 (h) This section shall only apply to violations concerning nexus
14 waters.

15 (i) As used in this section, “federal requirements” shall have
16 the same meaning as “effluent standard or limitation under this
17 chapter” in Section 1365 of Title 33 of the United States Code and
18 implementing regulations as of May 24, 2023.

19 (j) An action shall not be brought pursuant to this section against
20 a good faith discharger for violations alleged to have occurred
21 between January 1, 2026, and six months after implementation of
22 waste discharge requirements for nexus waters.

23 (k) As used in this section, “good faith discharger” means a
24 discharger who obtained a waste discharge requirement that is not
25 also a federal permit or certification pursuant to the Federal Water
26 Pollution Control Act between May 25, 2023, and January 1, 2026,
27 for a discharge to a nexus water.

28 (l) The department shall provide public notification to currently
29 enrolled permittees on the waste discharge requirements for nexus
30 waters and potential for enforcement pursuant to this section.

31 SEC. 12. The heading of Chapter 5.5 (commencing with
32 Section 13370) of Division 7 of the Water Code is amended to
33 read:

34
35 CHAPTER 5.5. COMPLIANCE WITH THE PROVISIONS OF THE
36 FEDERAL WATER POLLUTION CONTROL ACT AS AMENDED IN 1972
37 AND PROTECTION OF NEXUS WATERS
38

39 SEC. 13. Section 13370 of the Water Code is amended to read:

40 13370. The Legislature finds and declares as follows:

1 (a) The Federal Water Pollution Control Act (33 U.S.C. Sec.
2 1251 et seq.), as amended, provides for permit systems to regulate
3 the discharge of pollutants and dredged or fill material to the
4 navigable waters of the United States and to regulate the use and
5 disposal of sewage sludge.

6 (b) The Federal Water Pollution Control Act, as amended,
7 provides that permits may be issued by states that are authorized
8 to implement the provisions of that act.

9 (c) It is in the interest of the people of the state, in order to avoid
10 direct regulation by the federal government of persons already
11 subject to regulation under state law pursuant to this division, to
12 enact this chapter in order to authorize the state to implement the
13 provisions of the Federal Water Pollution Control Act and acts
14 amendatory thereof or supplementary thereto, and federal
15 regulations and guidelines issued pursuant thereto, provided, that
16 the state board shall request federal funding under the Federal
17 Water Pollution Control Act for the purpose of carrying out its
18 responsibilities under this program.

19 (d) It is in the interest of the people of the state to restore and
20 retain protections afforded to certain waters of the state prior to
21 May 25, 2023, under the Federal Water Pollution Control Act and
22 acts amendatory thereof or supplementary thereto, and federal
23 regulations and guidelines issued pursuant thereto, regardless of
24 actions taken at the federal level.

25 SEC. 14. Section 13372 of the Water Code is amended to read:

26 13372. (a) This chapter shall be construed to ensure
27 consistency with the requirements for state programs implementing
28 the Federal Water Pollution Control Act and acts amendatory
29 thereof or supplementary thereto, as applicable. To the extent other
30 provisions of this division are consistent with the provisions of
31 this chapter and with the applicable requirements for state programs
32 implementing the Federal Water Pollution Control Act and acts
33 amendatory thereof or supplementary thereto, those provisions
34 apply to actions and procedures provided for in this chapter. The
35 provisions of this chapter shall prevail over other provisions of
36 this division to the extent of any inconsistency. The provisions of
37 this chapter apply only to actions required under the Federal Water
38 Pollution Control Act and acts amendatory thereof or
39 supplementary thereto and to actions required under the Federal
40 Water Pollution Control Act prior to May 25, 2023.

(b) The provisions of Section 13376 requiring the filing of a report for the discharge of dredged or fill material and the provisions of this chapter relating to the issuance of dredged or fill material permits by the state board or a regional board shall be applicable only to discharges for which the state has an approved permit program, in accordance with the provisions of the Federal Water Pollution Control Act, as amended, for the discharge of dredged or fill material.

SEC. 15. Section 13373 of the Water Code is amended to read:

13373. (a) The terms “navigable waters,” “administrator,” “pollutants,” “biological monitoring,” “discharge,” and “point sources” as used in this chapter shall have the same meaning as in the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.

(b) For purposes of this chapter, nexus waters shall be treated as though they are navigable waters and navigable waters of the United States.

(c) “Discharge” shall include discharges from any point source to nexus waters.

SEC. 16. Section 13374 of the Water Code is amended to read:

13374. (a) The term “waste discharge requirements” as referred to in this division is the equivalent of the term “permits” as used in the Federal Water Pollution Control Act, as amended.

(b) For purposes of this chapter, “waste discharge requirements” shall include waste discharge requirements issued for discharges to nexus waters.

SEC. 17. Section 13376 of the Water Code is amended to read:

13376. A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260. Unless required by the state board or a regional board, and except for discharges to nexus waters, a report need not be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. A person who proposes to discharge pollutants or dredged or fill material or to operate a publicly owned treatment

works or other treatment works treating domestic sewage shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. A person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits, is prohibited. This prohibition does not apply to discharges or operations if a state or federal permit is not required under the Federal Water Pollution Control Act, as amended, except in the case of discharges to nexus waters.

SEC. 18. Section 13377.5 is added to the Water Code, to read:

13377.5. (a) Notwithstanding any other provision of this division, waste discharge requirements adopted or amended for discharges to nexus waters shall be adopted pursuant to and in accordance with the requirements of this chapter.

(b) Notwithstanding any other provision of this division, waste discharge requirements for discharges to nexus waters that are not also Federal Water Pollution Control Act permits shall be at least as stringent as any analogous Federal Water Pollution Control Act permits, including with respect to total maximum daily load-based effluent limitations and effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

(c) Notwithstanding any other provision of this division, waste discharge requirements for discharges to nexus waters shall ensure compliance with requirements of Sections 1311, 1312, 1316, 1317, 1318, and 1343 of Title 33 of the United States Code, as those sections were in effect prior to May 25, 2023.

(d) Discharges to nexus waters shall not be authorized through waivers of waste discharge requirements.

1 SEC. 19. Section 13383.5 of the Water Code is amended to
2 read:

3 13383.5. (a) As used in this section, “regulated municipalities
4 and industries” means the categories of municipalities and
5 industries required to obtain a stormwater permit under Section
6 402(p) of the federal Clean Water Act (33 U.S.C. Sec. 1342(p))
7 and implementing regulations, including industries required to
8 obtain a stormwater permit for discharges prior to May 25, 2023.

9 (b) This section only applies to regulated municipalities that
10 were subject to a stormwater permit on or before December 31,
11 2001, and to regulated industries that are subject to a General
12 Permit for Storm Water Discharges Associated with Industrial
13 Activities Excluding Construction Activities.

14 (c) Before January 1, 2003, the state board shall develop
15 minimum monitoring requirements for each regulated municipality
16 and minimum standard monitoring requirements for regulated
17 industries. This program shall include, but is not limited to, all of
18 the following:

19 (1) Standardized methods for collection of stormwater samples.

20 (2) Standardized methods for analysis of stormwater samples.

21 (3) A requirement that every sample analysis under this program
22 be completed by a state certified laboratory or by the regulated
23 municipality or industry in the field in accordance with the quality
24 assurance and quality control protocols established pursuant to
25 this section.

26 (4) A standardized reporting format.

27 (5) Standard sampling and analysis programs for quality
28 assurance and quality control.

29 (6) Minimum detection limits.

30 (7) Annual reporting requirements for regulated municipalities
31 and industries.

32 (8) For the purposes of determining constituents to be sampled
33 for, sampling intervals, and sampling frequencies, to be included
34 in a municipal stormwater permit monitoring program, the regional
35 board shall consider the following information, as the regional
36 board determines to be applicable:

37 (A) Discharge characterization monitoring data.

38 (B) Water quality data collected through the permit monitoring
39 program.

1 (C) Applicable water quality data collected, analyzed, and
2 reported by federal, state, and local agencies, and other public and
3 private entities.

4 (D) Any applicable listing under Section 303(d) of the federal
5 Clean Water Act (33 U.S.C. Sec. 1313) or Section 13251 of this
6 code.

7 (E) Applicable water quality objectives and criteria established
8 in accordance with the regional board basin plans, statewide plans,
9 and federal regulations.

10 (F) Reports and studies regarding source contribution of
11 pollutants in runoff not based on direct water quality measurements.

12 (d) The requirements prescribed pursuant to this section shall
13 be included in all stormwater permits for regulated municipalities
14 and industries that are reissued following development of the
15 requirements described in subdivision (c). Those permits shall
16 include these provisions on or before July 1, 2008. In a year in
17 which the Legislature appropriates sufficient funds for that purpose,
18 the state board shall make available to the public via the internet
19 a summary of the results obtained from stormwater monitoring
20 conducted in accordance with this section.

21 SEC. 20. Section 13385.1 of the Water Code is amended to
22 read:

23 13385.1. (a) (1) For the purposes of subdivision (h) of Section
24 13385, a “serious violation” also means a failure to file a discharge
25 monitoring report required pursuant to Section 13383 for each
26 complete period of 30 days following the deadline for submitting
27 the report, if the report is designed to ensure compliance with
28 limitations contained in waste discharge requirements that contain
29 effluent limitations. This paragraph applies only to violations that
30 occur on or after January 1, 2004.

31 (2) (A) Notwithstanding paragraph (1), a failure to file a
32 discharge monitoring report is not a serious violation for purposes
33 of subdivision (h) of Section 13385 at any time prior to the date a
34 discharge monitoring report is required to be filed or within 30
35 days after receiving written notice from the state board or a regional
36 board of the need to file a discharge monitoring report, if the
37 discharger submits a written statement to the state board or the
38 regional board that includes both of the following:

1 (i) A statement that there were no discharges reportable under
2 the applicable waste discharge requirements during the relevant
3 monitoring period.

4 (ii) The reason or reasons the required report was not submitted
5 to the regional board by the deadline for filing that report.

6 (B) Upon the request of the state board or regional board, the
7 discharger may be required to support the statement with additional
8 explanation or evidence.

9 (C) If, in a statement submitted pursuant to subparagraph (A),
10 the discharger willfully states as true any material fact that the
11 discharger knows to be false, that person shall be subject to a civil
12 penalty not exceeding ten thousand dollars (\$10,000). Any public
13 prosecutor may bring an action for a civil penalty under this
14 subparagraph in the name of the people of the State of California,
15 and the penalty imposed shall be enforced as a civil judgment.

16 (D) Notwithstanding subparagraph (A), the failure to file a
17 discharge monitoring report is subject to penalties in accordance
18 with subdivisions (c) and (e) of Section 13385.

19 (b) (1) Notwithstanding paragraph (1) of subdivision (a), a
20 mandatory minimum penalty shall continue to apply and shall be
21 assessed pursuant to subdivision (h) of Section 13385, but only
22 for each required report that is not timely filed, and shall not be
23 separately assessed for each 30-day period following the deadline
24 for submitting the report, if both of the following conditions are
25 met:

26 (A) The discharger did not on any occasion previously receive,
27 from the state board or a regional board, a complaint to impose
28 liability pursuant to subdivision (b) or (c) of Section 13385 arising
29 from a failure to timely file a discharge monitoring report, a notice
30 of violation for failure to timely file a discharge monitoring report,
31 or a notice of the obligation to file a discharge monitoring report
32 required pursuant to Section 13383, in connection with its
33 corresponding waste discharge requirements.

34 (B) The discharges during the period or periods covered by the
35 report do not violate effluent limitations, as defined in subdivision
36 (d), contained in waste discharge requirements.

37 (2) Paragraph (1) shall only apply to a discharger who does both
38 of the following:

39 (A) Files a discharge monitoring report that had not previously
40 been timely filed within 30 days after the discharger receives

1 written notice, including notice transmitted by electronic mail,
2 from the state board or regional board concerning the failure to
3 timely file the report.

4 (B) Pays all penalties assessed by the state board or regional
5 board in accordance with paragraph (1) within 30 days after an
6 order is issued to pay these penalties pursuant to Section 13385.

7 (3) Notwithstanding paragraph (1), the failure to file a discharge
8 monitoring report is subject to penalties in accordance with
9 subdivisions (c) and (e) of Section 13385.

10 (4) This subdivision shall become inoperative on January 1,
11 2014.

12 (c) (1) Notwithstanding any other provision of law, moneys
13 collected pursuant to this section for a failure to timely file a report,
14 as described in subdivision (a), shall be deposited into the State
15 Water Pollution Cleanup and Abatement Account.

16 (2) Notwithstanding Section 13340 of the Government Code,
17 the funds described in paragraph (1) are continuously appropriated,
18 without regard to fiscal years, to the state board for expenditure
19 by the state board to assist regional boards, and other public
20 agencies with authority to clean up waste or abate the effects of
21 the waste, in responding to significant water pollution problems.

22 (d) For the purposes of this section, paragraph (2) of subdivision
23 (f) of Section 13385, and subdivisions (h), (i), and (j) of Section
24 13385 only, “effluent limitation” means a numeric restriction or
25 a numerically expressed narrative restriction, on the quantity,
26 discharge rate, concentration, or toxicity units of a pollutant or
27 pollutants that may be discharged from an authorized location. An
28 effluent limitation may be final or interim, and may be expressed
29 as a prohibition. An effluent limitation, for those purposes, does
30 not include a receiving water limitation, a compliance schedule,
31 or a best management practice.

32 (e) The amendments made to this section by Senate Bill 1284
33 of the 2009–10 Regular Session of the Legislature shall apply to
34 violations for which an administrative civil liability complaint or
35 a judicial complaint has not been filed before July 1, 2010, without
36 regard to the date on which the violations occurred.

37 SEC. 21. This bill is not intended to modify or weaken existing
38 protections. In the event of a conflict between the provisions of
39 this bill and any existing state law or regulation, the more stringent
40 provision shall prevail.

1 SEC. 22. The provisions of this bill are severable. If any
2 provision of this bill or its application is held invalid, that invalidity
3 shall not affect other provisions or applications that can be given
4 effect without the invalid provision or application.

5 SEC. 23. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act or because costs that may be
10 incurred by a local agency or school district will be incurred
11 because this act creates a new crime or infraction, eliminates a
12 crime or infraction, or changes the penalty for a crime or infraction,
13 within the meaning of Section 17556 of the Government Code, or
14 changes the definition of a crime within the meaning of Section 6
15 of Article XIII B of the California Constitution.