

AMENDED IN ASSEMBLY JUNE 25, 2025

AMENDED IN SENATE MAY 23, 2025

AMENDED IN SENATE MAY 5, 2025

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

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An act 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, *and* to add Sections 13052, 13164.5, 13250, 13251, 13352, ~~and 13377.5~~ 13377.5, *and* 13385.5 to, ~~and to add Article 8 (commencing with Section 13366) to Chapter 5 of Division 7 of,~~ the Water Code, relating to water.

### 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. 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 a 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.

(2) 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, in the case of discharges to nexus waters, implement the relevant federal standards.

(3) 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. The bill would require moneys collected

in accordance with these annual adjustments to be deposited into the Penalty Adjustment Account, that the bill would establish within the Waste Discharge Permit Fund, and upon appropriation by the Legislature, be expended by the state board for purposes of cleaning up and abating the effects of waste on waters of the state.

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

~~This bill would authorize an action to be brought in the public interest in superior court by a person who has suffered an injury in fact to enforce federal requirements, specified state standards applicable to nexus waters, or other waste discharge requirements applicable to discharges from any point source to nexus waters, as specified.~~

*This bill would authorize specified entities, including the Attorney General and the state board, to bring an action to enforce certain provisions related to nexus waters or waste discharge requirements for nexus waters, as provided.*

(5) 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 meanings 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.

(6) 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 to 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: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 13052 is added to the Water Code,  
2 immediately following Section 13051, to read:

3 13052. As used in this division:

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

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

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

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

1 (3) A wetland water of the state that is adjacent to, adjoining,  
2 or otherwise hydraulically connected only to a water of the state  
3 that was determined to be nonjurisdictional pursuant to paragraph  
4 (1).

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

8 (5) Groundwater.

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

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

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

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

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

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

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

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

32 (c) “Nexus waters” does not include any wetland excluded from  
33 the definition of “waters of the state” as set forth in the “State  
34 Policy for Water Quality Control: State Wetland Definition and  
35 Procedures for Discharges of Dredged or Fill Material to Waters  
36 of the State” as revised April 6, 2021, referenced in Section 2926  
37 of Title 23 of the California Code of Regulations.

38 SEC. 2. Section 13164.5 is added to the Water Code, to read:

39 13164.5. The state board shall include nexus waters in all  
40 processes pursuant to the federal Clean Water Act (33 U.S.C. Sec.

1 1313(d)), including, but not limited to, the California Integrated  
2 Report and the establishment of total maximum daily loads.  
3 California Integrated Report listings and total maximum daily  
4 loads listed, established, or in process for nexus waters prior to  
5 January 19, 2025, shall continue in effect or development.

6 SEC. 3. Section 13170 of the Water Code is amended to read:

7 13170. The state board may adopt water quality control plans  
8 in accordance with the provisions of Sections 13240 to 13244,  
9 inclusive. Those plans, when adopted, supersede any regional  
10 water quality control plans for the same waters to the extent of any  
11 conflict.

12 SEC. 4. Section 13250 is added to the Water Code, to read:

13 13250. Any water quality standard applicable to nexus waters,  
14 which was submitted to, and approved by, or is awaiting approval  
15 by, the United States Environmental Protection Agency or the state  
16 board as of January 19, 2025, shall remain in effect, except where  
17 the state board, regional board, or United States Environmental  
18 Protection Agency adopts a more stringent standard.

19 SEC. 5. Section 13251 is added to the Water Code, to read:

20 13251. The regional boards shall include nexus waters in all  
21 processes pursuant to the federal Clean Water Act (33 U.S.C. Sec.  
22 1313(d)), including, but not limited to, the California Integrated  
23 Report and the establishment of total maximum daily loads.  
24 California Integrated Report listings and total maximum daily  
25 loads listed, established, or in process for nexus waters prior to  
26 January 19, 2025, shall continue in effect or development.

27 SEC. 6. Section 13263 of the Water Code is amended to read:

28 13263. (a) (1) The regional board, after any necessary hearing,  
29 shall prescribe requirements as to the nature of any proposed  
30 discharge, existing discharge, or material change in an existing  
31 discharge, except discharges into a community sewer system, with  
32 relation to the conditions existing in the disposal area or receiving  
33 waters upon, or into which, the discharge is made or proposed.  
34 The requirements shall implement any relevant water quality  
35 control plans that have been adopted, and shall take into  
36 consideration the past, present, and probable future beneficial uses  
37 to be protected, the water quality objectives reasonably required  
38 for that purpose, other waste discharges, the provisions of Section  
39 13241, and the need to prevent nuisance. In the case of discharges

1 to nexus waters, the requirements shall implement the relevant  
2 federal standards.

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

8 (b) A regional board, in prescribing requirements, need not  
9 authorize the utilization of the full waste assimilation capacities  
10 of the receiving waters.

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

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

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

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

22 (g) No discharge of waste into the waters of the state, whether  
23 or not the discharge is made pursuant to waste discharge  
24 requirements, shall create a vested right to continue the discharge.  
25 All discharges of waste into waters of the state are privileges, not  
26 rights.

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

30 (i) The state board or a regional board may prescribe general  
31 waste discharge requirements for a category of discharges if the  
32 state board or that regional board finds or determines that all of  
33 the following criteria apply to the discharges in that category:

34 (1) The discharges are produced by the same or similar  
35 operations.

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

37 (3) The discharges require the same or similar treatment  
38 standards.

1 (4) The discharges are more appropriately regulated pursuant  
2 to general discharge requirements than individual discharge  
3 requirements.

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

6 SEC. 7. Section 13350 of the Water Code is amended to read:

7 13350. (a) A person who violates a cease and desist order,  
8 cleanup and abatement order, waste discharge requirement, waiver  
9 condition, certification, or other order or prohibition issued,  
10 reissued, or amended by a regional board or the state board, or  
11 causes or permits any oil or any residuary product of petroleum  
12 to be deposited into or on any of the waters of the state, except in  
13 accordance with waste discharge requirements or other actions or  
14 provisions of this division, shall be liable civilly, and remedies  
15 may be proposed, in accordance with subdivision (d) or (e).

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

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

25 (3) For purposes of this subdivision, the term “discharge” does  
26 not include an emission excluded from the applicability of Section  
27 311 of the federal Clean Water Act (33 U.S.C. Sec. 1321) pursuant  
28 to United States Environmental Protection Agency regulations  
29 interpreting Section 311(a)(2) of the federal Clean Water Act (33  
30 U.S.C. Sec. 1321(a)(2)).

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

34 (1) An act of war.

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

39 (3) Negligence on the part of the state, the United States, or any  
40 department or agency thereof. However, this paragraph shall not



1 be interpreted to provide the state, the United States, or any  
2 department or agency thereof a defense to liability for any  
3 discharge caused by its own negligence.

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

7 (5) Any other circumstance or event that causes the discharge  
8 despite the exercise of every reasonable precaution to prevent or  
9 mitigate the discharge.

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

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

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

16 (e) The state board or a regional board may impose civil liability  
17 administratively pursuant to Article 2.5 (commencing with Section  
18 13323) either on a daily basis or on a per gallon basis, but not on  
19 both.

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

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

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

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

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

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

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

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

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

(k) Notwithstanding any other law, all funds generated by the imposition of liabilities pursuant to this section shall be deposited into the Waste Discharge Permit Fund. These moneys shall be separately accounted for, and shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443, or to assist in implementing Chapter 7.3 (commencing with Section 13560).

SEC. 8. Section 13352 is added to the Water Code, to read:

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

(b) The adjustment for inflation pursuant to this section shall be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties,

1 as applicable, for each civil monetary penalty by the cost-of-living  
2 adjustment. Any increase determined pursuant to this subdivision  
3 shall be rounded to the nearest multiple of one dollar (\$1).

4 (c) For purposes of subdivision (b), “cost-of-living adjustment”  
5 means the percentage, if any, for each civil monetary penalty by  
6 which the Consumer Price Index for the month of October  
7 preceding the date of the adjustment exceeds the Consumer Price  
8 Index for the month of October one year before the month of  
9 October preceding the date of the adjustment.

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

13 (e) The amount of the increase in a civil monetary penalty under  
14 subdivision (a) shall not exceed 150 percent of the amount of that  
15 civil monetary penalty from the previous year, except for the first  
16 adjustment.

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

21 (g) For purposes of this section, “civil monetary penalties”  
22 means the civil penalty or liability provided for in Sections 13261,  
23 13265, 13268, 13308, 13350, 13385, 13385.1, 13399.33, 13497,  
24 13498, 13499, 13529.4, 13611, 13627.1, 13627.2, and 13627.3.

25 (h) Notwithstanding any other law, moneys collected in  
26 accordance with this section shall be deposited into the Penalty  
27 Adjustment Account, which is hereby established in the Waste  
28 Discharge Permit Fund. The funds in the account shall be expended  
29 by the state board, upon appropriation by the Legislature, to assist  
30 regional boards and other public agencies with authority to clean  
31 up waste or abate the effects of the waste, in cleaning up or abating  
32 the effects of the waste on waters of the state or for purposes  
33 authorized in Section 13443.

34 ~~SEC. 9. Article 8 (commencing with Section 13366) is added~~  
35 ~~to Chapter 5 of Division 7 of the Water Code, to read:~~

36  
37 ~~Article 8. Citizen Enforcement~~

38  
39 ~~13366. (a) (1) An action may be brought in the public interest~~  
40 ~~in superior court by a person who has suffered an injury in fact to~~

1 enforce federal requirements, state standards incorporated by or  
2 adopted under this division applicable to nexus waters, or other  
3 waste discharge requirements applicable to discharges from any  
4 point source to nexus waters, each to the extent a cause of action  
5 was available pursuant to Section 1365 of Title 33 of the United  
6 States Code and implementing regulations as of May 24, 2023.

7 (2) It is the intent of the Legislature that this subdivision only  
8 applies to an action that would satisfy all the requirements to bring  
9 a cause of action pursuant to Section 1365 of Title 33 of the United  
10 States Code before *Sackett v. Environmental Protection Agency*  
11 (2023) 598 U.S. 651, and should not be interpreted to grant  
12 standing to a plaintiff who would not have satisfied standing  
13 requirements, or to nexus waters that would not have met the  
14 definition of a water of the United States, before that decision.

15 (b) At least 60 days before initiating an action pursuant to this  
16 section, the person who intends to initiate the action shall provide  
17 a written notice of the alleged violation to the alleged violator, the  
18 state board, the Attorney General, the applicable regional board,  
19 and a district attorney, county counsel, and prosecutor in whose  
20 jurisdiction the violation is alleged to have occurred. A demand  
21 for payment or request for payment that is made before providing  
22 the written notice pursuant to this subdivision shall be deemed a  
23 violation of the requirement to provide at least 60 days' notice as  
24 required by this subdivision.

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

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

35 (e) The court may award costs of litigation, including reasonable  
36 attorney's and expert witness fees, to any prevailing or substantially  
37 prevailing plaintiff, whenever the court determines that award is  
38 appropriate for an action brought pursuant to this section.  
39 Attorney's fees awarded under this section shall be awarded  
40 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 Title 40 of the Code of Federal Regulations. Penalties assessed and recovered in a civil action brought pursuant to this section shall be deposited into the Waste Discharge Permit Fund and separately accounted for in that fund. Those moneys shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in Section 13443. This subdivision shall not apply to settlement agreements or consent decrees.~~

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

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

~~(i) For purposes of this section, the following definitions apply:~~

~~(1) “Federal requirements” shall have the same meaning as “effluent standard or limitation under this chapter” in Section 1365 of Title 33 of the United States Code and implementing regulations as of May 24, 2023.~~

~~(2) “Good faith discharger” means a discharger who obtained a waste discharge requirement that is not also a federal permit or certification pursuant to the Federal Water Pollution Control Act between May 25, 2023, and January 1, 2026, inclusive, for a discharge to a nexus water.~~

~~(3) “Person” has the same meaning as in Section 19 and Section 13050.~~

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

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

~~(l) The Attorney General shall publish on its internet website by December 31 of each year, a report on all of the following:~~

~~(1) The number of written notices received pursuant to subdivision (b).~~

~~(2) The number of actions filed pursuant to subdivision (d).~~

~~(3) To the extent known, the outcome for all notices received pursuant to subdivision (b), including, but not limited to, settlements, offers in compromise, actions filed in court, or whether a public prosecuting entity pursued the matter.~~

~~SEC. 10.~~

*SEC. 9.* The heading of Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code is amended to read:

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

~~SEC. 11.~~

*SEC. 10.* Section 13370 of the Water Code is amended to read:

13370. The Legislature finds and declares as follows:

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

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

(c) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto, provided, that the state board shall request federal funding under the Federal

1 Water Pollution Control Act for the purpose of carrying out its  
2 responsibilities under this program.

3 (d) It is in the interest of the people of the state to restore and  
4 retain protections afforded to certain waters of the state prior to  
5 May 25, 2023, under the Federal Water Pollution Control Act and  
6 acts amendatory thereof or supplementary thereto, and federal  
7 regulations and guidelines issued pursuant thereto, regardless of  
8 actions taken at the federal level.

9 ~~SEC. 12.~~

10 *SEC. 11.* Section 13372 of the Water Code is amended to read:

11 13372. (a) This chapter shall be construed to ensure  
12 consistency with the requirements for state programs implementing  
13 the Federal Water Pollution Control Act and acts amendatory  
14 thereof or supplementary thereto, as applicable. To the extent other  
15 provisions of this division are consistent with the provisions of  
16 this chapter and with the applicable requirements for state programs  
17 implementing the Federal Water Pollution Control Act and acts  
18 amendatory thereof or supplementary thereto, those provisions  
19 apply to actions and procedures provided for in this chapter. The  
20 provisions of this chapter shall prevail over other provisions of  
21 this division to the extent of any inconsistency. The provisions of  
22 this chapter apply only to actions required under the Federal Water  
23 Pollution Control Act and acts amendatory thereof or  
24 supplementary thereto and to actions required under the Federal  
25 Water Pollution Control Act prior to May 25, 2023.

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

34 ~~SEC. 13.~~

35 *SEC. 12.* Section 13373 of the Water Code is amended to read:

36 13373. (a) The terms “navigable waters,” “administrator,”  
37 “pollutants,” “biological monitoring,” “discharge,” and “point  
38 sources” as used in this chapter shall have the same meanings as  
39 in the Federal Water Pollution Control Act and acts amendatory  
40 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. 14.~~

*SEC. 13.* 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. 15.~~

*SEC. 14.* 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



1 or fill material or the operation of a publicly owned treatment  
2 works or other treatment works treating domestic sewage by any  
3 person, except as authorized by waste discharge requirements or  
4 dredged or fill material permits, is prohibited. This prohibition  
5 does not apply to discharges or operations if a state or federal  
6 permit is not required under the Federal Water Pollution Control  
7 Act, as amended, except in the case of discharges to nexus waters.

8 ~~SEC. 16.~~

9 *SEC. 15.* Section 13377.5 is added to the Water Code, to read:

10 13377.5. (a) Notwithstanding any other provision of this  
11 division, waste discharge requirements adopted or amended for  
12 discharges to nexus waters shall be adopted pursuant to and in  
13 accordance with the requirements of this chapter.

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

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

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

29 (e) Notwithstanding any other law in this division, waste  
30 discharge requirements for discharges of dredged or fill material  
31 to nexus waters that are wetlands shall be issued in accordance  
32 with the “State Policy for Water Quality Control: State Wetland  
33 Definition and Procedures for Discharges of Dredged or Fill  
34 Material to Waters of the State” referenced in Section 2926 of  
35 Title 23 of the California Code of Regulations. In the event of a  
36 conflict, the provisions of the “State Policy for Water Quality  
37 Control: State Wetland Definition and Procedures for Discharges  
38 of Dredged or Fill Material to Waters of the State” as revised April  
39 6, 2021, referenced in Section 2926 of Title 23 of the California  
40 Code of Regulations shall control.

1     ~~SEC. 17.~~

2     *SEC. 16.* Section 13383.5 of the Water Code is amended to  
3 read:

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

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

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

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

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

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

27    (4) A standardized reporting format.

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

30    (6) Minimum detection limits.

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

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

38    (A) Discharge characterization monitoring data.

39    (B) Water quality data collected through the permit monitoring  
40 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. 18.~~

22 *SEC. 17.* Section 13385.1 of the Water Code is amended to  
23 read:

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

32 (2) (A) Notwithstanding paragraph (1), a failure to file a  
33 discharge monitoring report is not a serious violation for purposes  
34 of subdivision (h) of Section 13385 at any time prior to the date a  
35 discharge monitoring report is required to be filed or within 30  
36 days after receiving written notice from the state board or a regional  
37 board of the need to file a discharge monitoring report, if the  
38 discharger submits a written statement to the state board or the  
39 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. 18. Section 13385.5 is added to the Water Code, to read:*

38 *13385.5. (a) (1) An action to enforce this chapter related to*  
39 *nexus waters, Section 13264 related to nexus waters, or waste*  
40 *discharge requirements pursuant to this chapter for nexus waters*

1 *may be brought by the Attorney General, the state board, the*  
2 *applicable regional board, or brought by a district attorney, county*  
3 *counsel, or city attorney.*

4 *(2) In addition to any other remedies available by law, a court*  
5 *may award injunctive relief.*

6 *(b) The court shall award a prevailing plaintiff its reasonable*  
7 *attorney's fees and costs, including expert witness fees and costs.*

8 *(c) (1) A district attorney, county counsel, or city attorney shall*  
9 *provide a 30-day notice to the Attorney General, state board, and*  
10 *applicable regional board before prosecuting an action pursuant*  
11 *to this section. A public prosecutor's failure to provide this notice*  
12 *shall not constitute a defense to the action.*

13 *(2) The Attorney General, state board, or applicable regional*  
14 *board may respond to a notice by a district attorney, county*  
15 *counsel, or city attorney indicating that an action has, or will be,*  
16 *commenced. An action by a district attorney, county counsel, or*  
17 *city attorney shall not be commenced pursuant to this section if*  
18 *the Attorney General, state board, or applicable regional board*  
19 *is diligently prosecuting an enforcement proceeding against the*  
20 *alleged violator for the same violation.*

21 *(d) (1) An entity authorized to bring an action pursuant to*  
22 *subdivision (a) may seek the imposition of civil penalties, in an*  
23 *amount not to exceed seventy-five thousand dollars (\$75,000) per*  
24 *day per violation of this chapter related to nexus waters or of waste*  
25 *discharge requirements for nexus waters pursuant to this chapter.*

26 *(2) In determining the amount of penalties to be imposed, the*  
27 *court shall consider the factors specified in Section 13351.*

28 *(e) Penalties assessed and recovered in a civil action brought*  
29 *pursuant to this section shall be deposited into the Waste Discharge*  
30 *Permit Fund. Those moneys shall be expended by the state board,*  
31 *upon appropriation by the Legislature, to assist regional boards,*  
32 *and other public agencies with authority to clean up waste or abate*  
33 *the effects of the waste, in cleaning up or abating the effects of the*  
34 *waste on waters of the state or for the purposes authorized in*  
35 *Section 13443.*

36 *(f) This section does not limit other remedies and protections*  
37 *available under state or federal law.*

38 SEC. 19. This bill is not intended to modify or weaken existing  
39 protections. In the event of a conflict between the provisions of

1 this bill and any existing state law or regulation, the more stringent  
2 provision shall prevail.

3 SEC. 20. The provisions of this bill are severable. If any  
4 provision of this bill or its application is held invalid, that invalidity  
5 shall not affect other provisions or applications that can be given  
6 effect without the invalid provision or application.

7 SEC. 21. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 a local agency or school district has the authority to levy service  
10 charges, fees, or assessments sufficient to pay for the program or  
11 level of service mandated by this act or because costs that may be  
12 incurred by a local agency or school district will be incurred  
13 because this act creates a new crime or infraction, eliminates a  
14 crime or infraction, or changes the penalty for a crime or infraction,  
15 within the meaning of Section 17556 of the Government Code, or  
16 changes the definition of a crime within the meaning of Section 6  
17 of Article XIII B of the California Constitution.