

AMENDED IN ASSEMBLY JULY 10, 2025

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

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, 13377.5, and 13385.5 to, 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 that was submitted to, and approved by, or is awaiting approval by, the United States Environmental Protection Agency or the state board that applied to nexus waters as of January 19, 2025, May 24, 2023, to remain in effect, except where the state board, regional board, or United States Environmental Protection Agency adopts a more stringent standard: as provided.~~ The bill would require the state board and regional boards to include nexus waters in all ~~processes pursuant to the federal Clean Water Act, Act~~ processes, 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 *from any point source* to nexus waters, ~~implement the relevant federal standards. implement, at a minimum, the requirements of provisions implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.~~

(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 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~~ *any addition of a pollutant to a nexus water from any point source*. 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~~ *no*.

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)~~
12 (a) “Nexus waters” means all waters of the state that are not
13 also navigable waters, as defined in Section 13373, except for the
14 following waters of the state:
15 (1) Any waters of the state that were determined to be
16 nonjurisdictional for purposes of the Federal Water Pollution
17 Control Act (33 U.S.C. Sec. 1251 et seq.) by either the United
18 States Environmental Protection Agency or a United States Army
19 Corps of Engineers approved jurisdictional determination or
20 verified aquatic resource delineation report prior to May 25, 2023.

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

4 (3) A wetland water of the state that is adjacent to, adjoining,
5 or otherwise hydraulically connected only to a water of the state
6 that was determined to be nonjurisdictional pursuant to paragraph
7 (1).

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

11 (5) *A nonwetland water of the state that is not adjacent to,*
12 *adjoining, or otherwise hydraulically connected to other waters*
13 *of the state.*

14 ~~(5)~~

15 (6) Groundwater.

16 ~~(6)~~

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

20 ~~(7)~~

21 (8) Prior converted cropland designated by the United States
22 Secretary of Agriculture.

23 ~~(8)~~

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

27 ~~(9)~~

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

30 ~~(10)~~

31 (11) Artificial lakes or ponds created by excavating or diking
32 dry land to collect and retain water and that are used exclusively
33 for purposes such as stock watering, irrigation, settling basins, or
34 rice growing.

35 ~~(11)~~

36 (12) Artificial reflecting or swimming pools or other small
37 ornamental bodies of water created by excavating or diking dry
38 land to retain water for primarily aesthetic reasons.

39 ~~(12)~~

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

~~(13)~~

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

(15) *Highly artificial and manufactured human-constructed water conveyance infrastructure, unless either of the following apply:*

(A) *The water conveyance infrastructure channels, impounds, or replaces a naturally occurring body of water.*

(B) *The water conveyance infrastructure flows to, or significantly affects the chemical, physical, or biological integrity of, a navigable water or a nexus water.*

~~(e)~~

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

SEC. 2. Section 13164.5 is added to the Water Code, to read:
13164.5. The state board shall include nexus waters in all ~~processes pursuant to the federal Clean Water Act (33 U.S.C. Sec. 1313(d));~~ *1313(d)) processes*, including, but not limited to, the California Integrated Report and the establishment of total maximum daily loads. California Integrated Report listings and total maximum daily loads listed, established, or in process for nexus waters prior to January 19, 2025, shall continue in effect or development.

SEC. 3. Section 13170 of the Water Code is amended to read:
13170. The state board may adopt water quality control plans in accordance with the provisions of Sections 13240 to 13244, ~~inclusive;~~ *inclusive, insofar as they are applicable, for waters that water quality standards are required for by the Federal Water Pollution Control Act or for nexus waters as defined in Section 13052.* Those plans, when adopted, supersede any regional water quality control plans for the same waters to the extent of any conflict.

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

13250. Any water quality standard ~~applicable to nexus waters, which~~ *that* was submitted to, and approved by, or is awaiting approval by, the United States Environmental Protection Agency or the state board *that applied to nexus waters* as of ~~January 19, 2025, May 24, 2023~~, shall remain in effect, ~~except where the state board, regional board, or United States Environmental Protection Agency adopts a more stringent standard; and shall incorporate any modification adopted after that date pursuant to applicable state or federal law.~~

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

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

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

13263. (a) (1) The regional board, after any necessary hearing, shall 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. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the past, present, and probable future beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the provisions of Section 13241, and the need to prevent nuisance. ~~In the case of discharges to nexus waters, the requirements shall implement the relevant federal standards.~~

(2) For purposes of discharges from any point source, as defined in Section 13373, to nexus waters, the *prescribed requirements shall, at a minimum, implement the requirements set forth in Chapter 5.5 (commencing with Section 13370) of this division, which shall control to the extent there is a conflict.* The provisions of Section 13241 do not need to be ~~considered, and the~~

1 ~~requirements for those discharges shall implement the relevant~~
2 ~~federal standards, which shall control to the extent there is a~~
3 ~~conflict. considered.~~

4 (b) A regional board, in prescribing requirements, need not
5 authorize the utilization of the full waste assimilation capacities
6 of the receiving waters.

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

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

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

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

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

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

26 (i) The state board or a regional board may prescribe general
27 waste discharge requirements for a category of discharges if the
28 state board or that regional board finds or determines that all of
29 the following criteria apply to the discharges in that category:

30 (1) The discharges are produced by the same or similar
31 operations.

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

33 (3) The discharges require the same or similar treatment
34 standards.

35 (4) The discharges are more appropriately regulated pursuant
36 to general discharge requirements than individual discharge
37 requirements.

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

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

1 13350. (a) A person who violates a cease and desist order,
2 cleanup and abatement order, waste discharge requirement, waiver
3 condition, certification, or other order or prohibition issued,
4 reissued, or amended by a regional board or the state board, or
5 causes or permits any oil or any residuary product of petroleum
6 to be deposited into or on any of the waters of the state, except in
7 accordance with waste discharge requirements or other actions or
8 provisions of this division, shall be liable civilly, and remedies
9 may be proposed, in accordance with subdivision (d) or (e).

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

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

19 (3) For purposes of this subdivision, the term “discharge” does
20 not include an emission excluded from the applicability of Section
21 311 of the federal Clean Water Act (33 U.S.C. Sec. 1321) pursuant
22 to United States Environmental Protection Agency regulations
23 interpreting Section 311(a)(2) of the federal Clean Water Act (33
24 U.S.C. Sec. 1321(a)(2)).

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

28 (1) An act of war.

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

33 (3) Negligence on the part of the state, the United States, or any
34 department or agency thereof. However, this paragraph shall not
35 be interpreted to provide the state, the United States, or any
36 department or agency thereof a defense to liability for any
37 discharge caused by its own negligence.

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

1 (5) Any other circumstance or event that causes the discharge
2 despite the exercise of every reasonable precaution to prevent or
3 mitigate the discharge.

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

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

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

10 (e) The state board or a regional board may impose civil liability
11 administratively pursuant to Article 2.5 (commencing with Section
12 13323) either on a daily basis or on a per gallon basis, but not on
13 both.

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

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

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

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

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

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

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

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

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

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

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

28 13352. (a) Commencing January 1, 2026, and each calendar
29 year thereafter, the state board's executive director shall adjust
30 civil monetary penalties in accordance with this section.

31 (b) The adjustment for inflation pursuant to this section shall
32 be determined by increasing the maximum civil monetary penalty
33 or the range of minimum and maximum civil monetary penalties,
34 as applicable, for each civil monetary penalty by the cost-of-living
35 adjustment. Any increase determined pursuant to this subdivision
36 shall be rounded to the nearest multiple of one dollar (\$1).

37 (c) For purposes of subdivision (b), "cost-of-living adjustment"
38 means the percentage, if any, for each civil monetary penalty by
39 which the Consumer Price Index for the month of October
40 preceding the date of the adjustment exceeds the Consumer Price

1 Index for the month of October one year before the month of
2 October preceding the date of the adjustment.

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

6 (e) The amount of the increase in a civil monetary penalty under
7 subdivision (a) shall not exceed 150 percent of the amount of that
8 civil monetary penalty from the previous year, except for the first
9 adjustment.

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

14 (g) For purposes of this section, “civil monetary penalties”
15 means the civil penalty or liability provided for in Sections 13261,
16 13265, 13268, 13308, 13350, 13385, 13385.1, 13399.33, 13497,
17 13498, 13499, 13529.4, 13611, 13627.1, 13627.2, and 13627.3.

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

27 SEC. 9. The heading of Chapter 5.5 (commencing with Section
28 13370) of Division 7 of the Water Code is amended to read:

29
30 CHAPTER 5.5. COMPLIANCE WITH THE PROVISIONS OF THE
31 FEDERAL WATER POLLUTION CONTROL ACT AS AMENDED IN 1972
32 AND PROTECTION OF NEXUS WATERS
33

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

35 13370. The Legislature finds and declares as follows:

36 (a) The Federal Water Pollution Control Act (33 U.S.C. Sec.
37 1251 et seq.), as amended, provides for permit systems to regulate
38 the discharge of pollutants and dredged or fill material to the
39 navigable waters of the United States and to regulate the use and
40 disposal of sewage sludge.

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

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

14 (d) It is in the interest of the people of the state to restore and
15 retain protections *previously* afforded to ~~certain waters of the state~~
16 ~~prior to May 25, 2023~~, *nexus waters* under the Federal Water
17 Pollution Control Act and acts amendatory thereof or
18 supplementary thereto, and federal regulations and guidelines
19 issued pursuant thereto, regardless of actions taken at the federal
20 ~~level~~; *level to redefine waters of the United States pursuant to*
21 *Section 328.3 of Title 33 of, and Section 120.2 of Title 40 of, the*
22 *Code of Federal Regulations.*

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

24 13372. (a) This chapter shall be construed to ensure
25 consistency with the requirements for state programs implementing
26 the Federal Water Pollution Control Act and acts amendatory
27 thereof or supplementary thereto, as applicable. To the extent other
28 provisions of this division are consistent with the provisions of
29 this chapter and with the applicable requirements for state programs
30 implementing the Federal Water Pollution Control Act and acts
31 amendatory thereof or supplementary thereto, those provisions
32 apply to actions and procedures provided for in this chapter. The
33 provisions of this chapter shall prevail over other provisions of
34 this division to the extent of any inconsistency. The provisions of
35 this chapter apply only to actions required under the Federal Water
36 Pollution Control Act and acts amendatory thereof or
37 supplementary thereto ~~and to actions required under the Federal~~
38 ~~Water Pollution Control Act prior to May 25, 2023~~; *except as*
39 *otherwise authorized for point source discharges of pollutants to*
40 *nexus waters in this chapter.*

(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. 12. 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 meanings 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.~~ *have the same meaning as in the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplementary thereto, and shall also mean any addition of any pollutant to a nexus water from any point source.*

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. 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

1 section for discharges that are not subject to the permit application
2 requirements of the Federal Water Pollution Control Act, as
3 amended. A person who proposes to discharge pollutants or
4 dredged or fill material or to operate a publicly owned treatment
5 works or other treatment works treating domestic sewage shall file
6 a report at least 180 days in advance of the date on which it is
7 desired to commence the discharge of pollutants or dredged or fill
8 material or the operation of the treatment works. A person who
9 owns or operates a publicly owned treatment works or other
10 treatment works treating domestic sewage, which treatment works
11 commenced operation before January 1, 1988, and does not
12 discharge to navigable waters of the United States, shall file a
13 report within 45 days of a written request by a regional board or
14 the state board, or within 45 days after the state has an approved
15 permit program for the use and disposal of sewage sludge,
16 whichever occurs earlier. The discharge of pollutants or dredged
17 or fill material or the operation of a publicly owned treatment
18 works or other treatment works treating domestic sewage by any
19 person, except as authorized by waste discharge requirements or
20 dredged or fill material permits, is prohibited. This prohibition
21 does not apply to discharges or operations if a state or federal
22 permit is not required under the Federal Water Pollution Control
23 Act, as amended, except in the case of discharges to nexus waters.

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

25 13377.5. (a) Notwithstanding any other provision of this
26 division, waste discharge requirements adopted or amended for
27 discharges to nexus waters shall be adopted pursuant to and in
28 accordance with the requirements of this chapter.

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

38 (c) ~~Notwithstanding any other provision of this division, waste~~
39 ~~discharge requirements for discharges to nexus waters shall ensure~~
40 ~~compliance with requirements of Sections 1311, 1312, 1316, 1317,~~

1 ~~1318, and 1343 of Title 33 of the United States Code, as those~~
2 ~~sections were in effect prior to May 25, 2023.~~

3 ~~(d)~~

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

6 ~~(e)~~

7 (d) Notwithstanding any other law in this division, waste
8 discharge requirements for discharges of dredged or fill material
9 to nexus waters that are wetlands shall be issued in accordance
10 with the “State Policy for Water Quality Control: State Wetland
11 Definition and Procedures for Discharges of Dredged or Fill
12 Material to Waters of the State” referenced in Section 2926 of
13 Title 23 of the California Code of Regulations. In the event of a
14 conflict, the provisions of the “State Policy for Water Quality
15 Control: State Wetland Definition and Procedures for Discharges
16 of Dredged or Fill Material to Waters of the State” as revised April
17 6, 2021, referenced in Section 2926 of Title 23 of the California
18 Code of Regulations shall control.

19 SEC. 16. Section 13383.5 of the Water Code is amended to
20 read:

21 13383.5. (a) As used in this section, “regulated municipalities
22 and industries” means the categories of municipalities and
23 industries required to obtain a stormwater permit under Section
24 402(p) of the federal Clean Water Act (33 U.S.C. Sec. 1342(p))
25 and implementing regulations, ~~including industries required to~~
26 ~~obtain a stormwater permit for discharges prior to May 25, 2023.~~
27 *regulations.*

28 (b) This section only applies to regulated municipalities that
29 were subject to a stormwater permit on or before December 31,
30 2001, and to regulated industries that are subject to a General
31 Permit for Storm Water Discharges Associated with Industrial
32 Activities Excluding Construction Activities.

33 (c) Before January 1, 2003, the state board shall develop
34 minimum monitoring requirements for each regulated municipality
35 and minimum standard monitoring requirements for regulated
36 industries. This program shall include, but is not limited to, all of
37 the following:

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

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

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

6 (4) A standardized reporting format.

7 (5) Standard sampling and analysis programs for quality
8 assurance and quality control.

9 (6) Minimum detection limits.

10 (7) Annual reporting requirements for regulated municipalities
11 and industries.

12 (8) For the purposes of determining constituents to be sampled
13 for, sampling intervals, and sampling frequencies, to be included
14 in a municipal stormwater permit monitoring program, the regional
15 board shall consider the following information, as the regional
16 board determines to be applicable:

17 (A) Discharge characterization monitoring data.

18 (B) Water quality data collected through the permit monitoring
19 program.

20 (C) Applicable water quality data collected, analyzed, and
21 reported by federal, state, and local agencies, and other public and
22 private entities.

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

26 (E) Applicable water quality objectives and criteria established
27 in accordance with the regional board basin plans, statewide plans,
28 and federal regulations.

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

31 (d) The requirements prescribed pursuant to this section shall
32 be included in all stormwater permits for regulated municipalities
33 and industries that are reissued following development of the
34 requirements described in subdivision (c). Those permits shall
35 include these provisions on or before July 1, 2008. In a year in
36 which the Legislature appropriates sufficient funds for that purpose,
37 the state board shall make available to the public via the internet
38 a summary of the results obtained from stormwater monitoring
39 conducted in accordance with this section.

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

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

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

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

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

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

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

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

(b) (1) Notwithstanding paragraph (1) of subdivision (a), a mandatory minimum penalty shall continue to apply and shall be assessed pursuant to subdivision (h) of Section 13385, but only for each required report that is not timely filed, and shall not be

1 separately assessed for each 30-day period following the deadline
2 for submitting the report, if both of the following conditions are
3 met:

4 (A) The discharger did not on any occasion previously receive,
5 from the state board or a regional board, a complaint to impose
6 liability pursuant to subdivision (b) or (c) of Section 13385 arising
7 from a failure to timely file a discharge monitoring report, a notice
8 of violation for failure to timely file a discharge monitoring report,
9 or a notice of the obligation to file a discharge monitoring report
10 required pursuant to Section 13383, in connection with its
11 corresponding waste discharge requirements.

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

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

17 (A) Files a discharge monitoring report that had not previously
18 been timely filed within 30 days after the discharger receives
19 written notice, including notice transmitted by electronic mail,
20 from the state board or regional board concerning the failure to
21 timely file the report.

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

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

28 (4) This subdivision shall become inoperative on January 1,
29 2014.

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

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

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

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

SEC. 18. Section 13385.5 is added to the Water Code, to read:

13385.5. (a) (1) An action to enforce this chapter related to nexus waters, Section 13264 related to nexus waters, or waste discharge requirements pursuant to this chapter for nexus waters may be brought by the Attorney General, the state board, the applicable regional board, or brought by a district attorney, county counsel, or city attorney.

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

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

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

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

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

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

8 (e) Penalties assessed and recovered in a civil action brought
9 pursuant to this section shall be deposited into the Waste Discharge
10 Permit Fund. Those moneys shall be expended by the state board,
11 upon appropriation by the Legislature, to assist regional boards,
12 and other public agencies with authority to clean up waste or abate
13 the effects of the waste, in cleaning up or abating the effects of the
14 waste on waters of the state or for the purposes authorized in
15 Section 13443.

16 (f) This section does not limit other remedies and protections
17 available under state or federal law.

18 SEC. 19. This bill is not intended to ~~modify or~~ weaken existing
19 protections. In the event of a conflict between the provisions of
20 this bill and any existing state law or regulation, the more stringent
21 provision shall prevail.

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

26 ~~SEC. 21. No reimbursement is required by this act pursuant to~~
27 ~~Section 6 of Article XIII B of the California Constitution because~~
28 ~~a local agency or school district has the authority to levy service~~
29 ~~charges, fees, or assessments sufficient to pay for the program or~~
30 ~~level of service mandated by this act or because costs that may be~~
31 ~~incurred by a local agency or school district will be incurred~~
32 ~~because this act creates a new crime or infraction, eliminates a~~
33 ~~crime or infraction, or changes the penalty for a crime or infraction,~~
34 ~~within the meaning of Section 17556 of the Government Code, or~~
35 ~~changes the definition of a crime within the meaning of Section 6~~
36 ~~of Article XIII B of the California Constitution.~~