

**Introduced by Senator Allen
(Coauthor: Senator Gonzalez)**

February 20, 2025

An act to amend Sections 16000.3 and 16100.3 of the Business and Professions Code, to add and repeal Section 116365.04 of the Health and Safety Code, and to amend Sections 13170, 13263, 13350, 13370, 13372, 13373, 13376, 13383.5, 13385, 13385.1, and 13387 of, to amend the heading of Chapter 5.5 (commencing with Section 13370) of Division 7 of, to add Sections 13052, 13164.5, 13250, 13251, 13352, and 13377.5 to, and to add Article 8 (commencing with Section 13366) to Chapter 5 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

(2) Existing law, the California Safe Drinking Water Act, among other things, requires the State Water Resources Control Board to adopt primary drinking water standards for contaminants in drinking water, as specified, and requires these standards to not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency.

This bill would require the state board to, on or before June 30, 2028, adopt a primary drinking water standard at least as stringent as the national primary drinking water standard adopted by the United States Environmental Protection Agency that was in effect on January 19, 2025, as specified. The bill would repeal these provisions on January 1, 2030.

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

This bill would delete the limitation on the state board's authorization, and instead would authorize the state board to adopt water quality control plans for any waters of the state, which would include nexus waters, which the bill would define as all waters of the state, 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.

(4) 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 include, among other things, state policies for water quality control.

(5) 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, such as a violation of a waste discharge requirement or dredged or fill material permit, the act imposes specified civil penalties, the proceeds of which are deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account. Existing law provides that any person who knowingly or negligently takes specified actions related to waste discharge is guilty of a crime. Existing law prohibits a person from initiating any new discharge of waste or making any material changes in any discharge, or initiating a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report, as specified.

This bill would require, commencing January 1, 2026, and each calendar year thereafter, the state board's executive director to adjust civil monetary penalties, as specified, including the civil penalties for the above-described provisions. By increasing the amount of penalties deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account, the bill would make an appropriation. The bill would make a person who fails to file a report pursuant to the above-described provisions regarding injection wells subject to civil liability or criminal liability, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.

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

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

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

This bill would provide that “navigable waters” and “navigable waters of the United States” include nexus waters and “discharge” include discharges to nexus waters. 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.

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

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

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

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

Digest Key

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 16000.3 of the Business and Professions Code is amended to read:

16000.3. (a) When applying to a city for an initial business license, equivalent instrument, or permit, or renewal thereof, a person who conducts a business operation that is a regulated industry, as defined in Section 13383.5 of the Water Code, shall demonstrate enrollment with the National Pollutant Discharge Elimination System (NPDES) *or the Waste Discharge Requirements (WDR)* permit~~-program~~ *programs* by providing all of the following information, under penalty of perjury, on the initial business license, equivalent instrument, or permit, or renewal thereof, application:

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

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

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

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

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

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

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

(b) Prior to the issuance or renewal of the business license, equivalent instrument, or permit, the city shall determine whether any of the primary Standard Industrial Classification Codes are applicable to a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5 of the Water Code, and if applicable, the city shall confirm that the WDID, WDID application number, NONA, or NEC corresponds to the business requesting the initial business license or business license renewal. To determine whether any of the primary Standard Industrial Classification Codes are applicable to a General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities, as referenced in Section 13383.5 of the Water Code, the city may use information provided by the State Water Resources Control Board, including information posted pursuant to Section 13383.10 of the Water Code for these purposes. To confirm the WDID, WDID application number, NONA, or NEC, the city shall only need to keep record of the applicable documentation.

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

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

(2) The total planned disturbed acreage.

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

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

~~(e)~~

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

~~(f)~~

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

~~(e)~~

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

~~(f)~~

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

~~(g)~~

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

~~(h)~~

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

~~(i)~~

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

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

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

- (1) The name and location of facilities operated by the person who conducts that business.
- (2) All primary Standard Industrial Classification Codes, as defined in Section 25244.14 of the Health and Safety Code, for the business.
- (3) Any of the following for each facility operated by the person of that business:
 - (A) The stormwater permit number, known as the Waste Discharger Identification number (WDID), issued for the facility by the State Water Resources Control Board.
 - (B) The WDID application number issued for the facility by the State Water Resources Control Board.
 - (C) The “notice of nonapplicability” (NONA) identification number issued for the facility by the State Water Resources Control Board.
 - (D) The “no exposure certification” (NEC) identification number issued for the facility by the State Water Resources Control Board.

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

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

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

(2) The total planned disturbed acreage.

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

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

~~(e)~~

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

~~(f)~~

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

~~(e)~~

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

~~(f)~~

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

~~(g)~~

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

building or construction permits.

~~(h)~~

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

~~(i)~~

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

SEC. 3. Section 116365.04 is added to the Health and Safety Code, to read:

116365.04. (a) (1) On or before June 30, 2028, the state board shall adopt a primary drinking water standard at least as stringent as the national primary drinking water standard adopted by the United States Environmental Protection Agency that was in effect on January 19, 2025.

(2) If the state's primary drinking water standard is not materially different in substance and effect than the requirements of the national primary drinking water standard that was in effect on January 19, 2025, the state board may adopt the primary drinking water standard as an emergency regulation, even if the national standard has been repealed or replaced by a less stringent standard. The adoption of a regulation pursuant to this paragraph is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the state board pursuant to this section is not subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board. Notwithstanding Section 15300.2 of Title 14 of the California Code of Regulations, actions of the state board under this paragraph shall be deemed to be within Section 15308 of Title 14 of the California Code of Regulations, provided that those actions do not involve relaxation of primary drinking water standards in effect under this chapter.

(b) This section is not a limitation on the authority of the state board to do either of the following:

(1) To adopt a primary drinking water standard that maintains or provides greater protection of the health of persons than provided by a national primary drinking water standard that was in effect on January 19, 2025.

(2) To adopt a regulation under subdivision (j) of Section 116365 in lieu of establishing a maximum contaminant level.

(c) This section shall become inoperative on January 20, 2029, and, as of January 1, 2030, is repealed.

SEC. 4. Section 13052 is added to the Water Code, immediately following Section 13051, to read:

13052. As used in this division:

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

(b) "Nexus waters" means all waters of the state, except for any of the following:

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

(2) For waters of the state that were determined to be nonjurisdictional pursuant to paragraph (1), all of the following associated waters:

(A) Nonwetland tributaries that are tributary only.

(B) A wetland that is adjacent to, adjoining, or otherwise hydraulically connected.

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

(3) The waters of the state falls within any of the following exclusions:

(A) Groundwater.

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

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

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

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

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

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

(H) 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.

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

SEC. 5. 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)), 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 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, insofar as they are applicable, for waters for which water quality standards are required by the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto. Such~~ *inclusive. Those* plans, when adopted, supersede any regional water quality control plans for the same waters to the extent of any conflict.

SEC. 7. Section 13250 is added to the Water Code, to read:

13250. 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, shall remain in effect, except where the state board, regional board, or United States Environmental Protection Agency adopts a more stringent standard.

SEC. 8. 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)), 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. 9. Section 13263 of the Water Code is amended to read:

13263. (a) 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 *and state policies for water quality control* 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, *and the need to prevent* ~~nuisance, and the provisions of Section 13241.~~ *nuisance. In the case of discharges to nexus waters, the requirements shall implement the relevant federal standards.*

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

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

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

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

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

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

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

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

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

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

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

(4) The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

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

SEC. 10. Section 13350 of the Water Code is amended to read:

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

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

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

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

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

(1) An act of war.

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

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

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

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

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

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

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

(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) ~~of Chapter 5~~ either on a daily basis or on a per gallon basis, but not on both.

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

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

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

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

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

~~(f) This section shall become operative on July 1, 2017.~~

SEC. 11. 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, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined pursuant to this subdivision shall be rounded to the nearest multiple of one dollar (\$1).

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

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

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

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

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

SEC. 12. Article 8 (commencing with Section 13366) is added to Chapter 5 of Division 7 of the Water Code, to read:

Article 8. Citizen Enforcement

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

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

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

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

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

(f) Civil penalties that may be imposed by a superior court for an action brought pursuant to this section are equivalent in value to penalties available for citizen suits brought under the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) and its implementing regulations. Notwithstanding any law requiring or

authorizing higher penalties, civil penalties assessed pursuant to this section shall not exceed the civil penalty levels under Part 19 (commencing with Section 19.1) of Subchapter A of Chapter 1 of 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) As used in this section, “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.

SEC. 13. 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. 14. 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 ~~which~~ *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 Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

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

SEC. 15. Section 13372 of the Water Code is amended to read:

13372. (a) This chapter shall be construed to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary ~~thereto.~~ *thereto, as applicable.* To the extent other provisions of this division are consistent with the provisions of this chapter and with the *applicable* requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, those provisions apply to actions and procedures provided for in this chapter. The provisions of this chapter shall prevail over other provisions of this division to the extent of any inconsistency. The provisions of this chapter apply only to actions required under

the Federal Water Pollution Control Act and acts amendatory thereof or supplementary ~~thereto.~~ *thereto and to actions required under the Federal Water Pollution Control Act prior to May 25, 2023.*

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

SEC. 16. Section 13373 of the Water Code is amended to read:

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

(b) “Navigable waters” and “navigable waters of the United States” shall include nexus waters and “discharge” shall include discharges to nexus waters.

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

13376. A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260. Unless required by the state board or a regional board, *and except for discharges to nexus waters,* a report need not be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. A person who proposes to discharge pollutants or dredged or fill material or to operate a publicly owned treatment works or other treatment works treating domestic sewage shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. A person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits, is prohibited. This prohibition does not apply to discharges or operations if a state or federal permit is not required under the Federal Water Pollution Control Act, as ~~amended.~~ *amended, except in the case of discharges to nexus waters.*

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

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

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

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

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

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

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

(b) This section only applies to regulated municipalities that were subject to a ~~storm-water~~ *stormwater* permit on or before December 31, 2001, and to regulated industries that are subject to ~~the a~~ General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities.

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

- (1) Standardized methods for collection of ~~storm-water~~ *stormwater* samples.
- (2) Standardized methods for analysis of ~~storm-water~~ *stormwater* samples.
- (3) A requirement that every sample analysis under this program be completed by a state certified laboratory or by the regulated municipality or industry in the field in accordance with the quality assurance and quality control protocols established pursuant to this section.
- (4) A standardized reporting format.
- (5) Standard sampling and analysis programs for quality assurance and quality control.
- (6) Minimum detection limits.
- (7) Annual reporting requirements for regulated municipalities and industries.
- (8) For the purposes of determining constituents to be sampled for, sampling intervals, and sampling frequencies, to be included in a municipal ~~storm-water~~ *stormwater* permit monitoring program, the regional board shall consider the following information, as the regional board determines to be applicable:
 - (A) Discharge characterization monitoring data.
 - (B) Water quality data collected through the permit monitoring program.
 - (C) Applicable water quality data collected, analyzed, and reported by federal, state, and local agencies, and other public and private entities.
 - (D) Any applicable listing under Section 303(d) of the *federal* Clean Water Act (33 U.S.C. Sec. ~~1313~~ *1313*) or *Section 13251 of this code.*
 - (E) Applicable water quality objectives and criteria established in accordance with the regional board basin plans, statewide plans, and federal regulations.
 - (F) Reports and studies regarding source contribution of pollutants in runoff not based on direct water quality measurements.

(d) The requirements prescribed pursuant to this section shall be included in all ~~storm-water~~ *stormwater* permits for regulated municipalities and industries that are reissued following development of the requirements described in subdivision (c). Those permits shall include these provisions on or before July 1, 2008. In a year in which the Legislature appropriates sufficient funds for that purpose, the state board shall make available to the public via

the ~~Internet~~ *internet* a summary of the results obtained from ~~storm water~~ *stormwater* monitoring conducted in accordance with this section.

SEC. 20. Section 13385 of the Water Code is amended to read:

13385. (a) A person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section ~~13375~~ *13264, 13375*, or 13376.

(2) A waste discharge requirement or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) A requirement established pursuant to Section 13383.

(4) An order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) A requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the federal Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1341, or 1345), as amended.

(6) A requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) (1) Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

(A) Twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(B) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed twenty-five dollars (\$25) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(2) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose the liability.

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(d) For purposes of subdivisions (b) and (c), “discharge” includes any discharge to navigable waters of the United States, any introduction of pollutants into a publicly owned treatment works, or any use or disposal of sewage sludge.

(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum,

liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

(f) (1) Except as provided in paragraph (2), for the purposes of this section, a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(2) (A) For the purposes of subdivisions (h) and (i), a single operational upset in a wastewater treatment unit that treats wastewater using a biological treatment process shall be treated as a single violation, even if the operational upset results in violations of more than one effluent limitation and the violations continue for a period of more than one day, if all of the following apply:

(i) The discharger demonstrates all of the following:

(I) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

(II) But for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.

(III) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

(ii) The discharger is implementing an approved pretreatment program, if so required by federal or state law.

(B) Subparagraph (A) only applies to violations that occur during a period for which the regional board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal, except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

(2) For the purposes of this section, a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

(i) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

(2) For the purposes of this section, a “period of six consecutive months” means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.

(j) Subdivisions (h) and (i) do not apply to any of the following:

(1) A violation caused by one or any combination of the following:

(A) An act of war.

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

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

(D) (i) The operation of a new or reconstructed wastewater treatment unit during a defined period of adjusting or testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit, if all of the following requirements are met:

(I) The discharger has submitted to the regional board, at least 30 days in advance of the operation, an operations plan that describes the actions the discharger will take during the period of adjusting and testing, including steps to prevent violations and identifies the shortest reasonable time required for the period of adjusting and testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit.

(II) The regional board has not objected in writing to the operations plan.

(III) The discharger demonstrates that the violations resulted from the operation of the new or reconstructed wastewater treatment unit and that the violations could not have reasonably been avoided.

(IV) The discharger demonstrates compliance with the operations plan.

(V) In the case of a reconstructed wastewater treatment unit, the unit relies on a biological treatment process that is required to be out of operation for at least 14 days in order to perform the reconstruction, or the unit is required to be out of operation for at least 14 days and, at the time of the reconstruction, the cost of reconstructing the unit exceeds 50 percent of the cost of replacing the wastewater treatment unit.

(ii) For the purposes of this section, “wastewater treatment unit” means a component of a wastewater treatment plant that performs a designated treatment function.

(2) (A) Except as provided in subparagraph (B), a violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all of the following requirements are met:

(i) The cease and desist order or time schedule order is issued after January 1, 1995, but not later than July 1, 2000, specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i), and the date by which compliance is required to be achieved and, if the final date by which compliance is required to be achieved is later than one year from the effective date of the cease and desist order or time schedule order, specifies the interim requirements by which progress towards compliance will be measured and the date by which the discharger will be in compliance with each interim requirement.

(ii) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan that meets the requirements of Section 13263.3.

(iii) The discharger demonstrates that it has carried out all reasonable and immediately feasible actions to reduce noncompliance with the waste discharge requirements applicable to the waste discharge and the executive officer of the regional board concurs with the demonstration.

(B) Subdivisions (h) and (i) shall become applicable to a waste discharge on the date the waste discharge requirements applicable to the waste discharge are revised and reissued pursuant to Section 13380, unless the regional board does all of the following on or before that date:

(i) Modifies the requirements of the cease and desist order or time schedule order as may be necessary to make it fully consistent with the reissued waste discharge requirements.

(ii) Establishes in the modified cease and desist order or time schedule order a date by which full compliance with the reissued waste discharge requirements shall be achieved. For the purposes of this subdivision, the regional board may not establish this date later than five years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380. If the reissued waste discharge requirements do not add new effluent limitations or do not include effluent limitations that are more stringent than those in the original waste discharge requirements, the date shall be the same as the final date for compliance in the original cease and desist order or time schedule order or five years from the date that the waste discharge requirements were required to be reviewed pursuant to Section 13380, whichever is earlier.

(iii) Determines that the pollution prevention plan required by clause (ii) of subparagraph (A) is in compliance with the requirements of Section 13263.3 and that the discharger is implementing the pollution prevention plan in a timely and proper manner.

(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(ii) New methods for detecting or measuring a pollutant in the waste discharge demonstrate that new or modified control measures are necessary in order to comply with the effluent limitation and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(iii) Unanticipated changes in the quality of the municipal or industrial water supply available to the discharger are the cause of unavoidable changes in the composition of the waste discharge, the changes in the composition of the waste discharge are the cause of the inability to comply with the effluent

limitation, no alternative water supply is reasonably available to the discharger, and new or modified measures to control the composition of the waste discharge cannot be designed, installed, and put into operation within 30 calendar days.

(iv) The discharger is a publicly owned treatment works located in Orange County that is unable to meet effluent limitations for biological oxygen demand, suspended solids, or both, because the publicly owned treatment works meets all of the following criteria:

(I) Was previously operating under modified secondary treatment requirements pursuant to Section 301(h) of the *federal* Clean Water Act (33 U.S.C. Sec. 1311(h)).

(II) Did vote on July 17, 2002, not to apply for a renewal of the modified secondary treatment requirements.

(III) Is in the process of upgrading its treatment facilities to meet the secondary treatment standards required by Section 301(b)(1)(B) of the *federal* Clean Water Act (33 U.S.C. Sec. 1311(b)(1)(B)).

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

(ii) (I) For purposes of the upgrade described in subclause (III) of clause (iv) of subparagraph (B), the time schedule shall not exceed 10 years in length.

(II) Following a public hearing, and upon a showing that the discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the regional board may extend the time schedule for an additional period not exceeding five years in length, if the discharger demonstrates that the additional time is necessary to comply with the effluent limitation. This subclause does not apply to a time schedule described in subclause (I).

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

(k) (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:

(A) The compliance project is designed to correct the violations within five years.

(B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.

(C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.

(2) For the purposes of this subdivision, “a publicly owned treatment works serving a small community” means a publicly owned treatment works serving a population of 20,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering ~~such~~ factors *such* as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.

(l) (1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).

(2) For the purposes of this section, a “supplemental environmental project” means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section.

(3) This subdivision applies to the imposition of penalties pursuant to subdivision (h) or (i) on or after January 1, 2003, without regard to the date on which the violation occurs.

(m) The Attorney General, upon request of a regional board or the state board, shall petition the appropriate court to collect any liability or penalty imposed pursuant to this section. Any person who fails to pay on a timely basis any liability or penalty imposed under this section shall be required to pay, in addition to that liability or penalty, interest, attorney’s fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the person’s penalty and nonpayment penalties that are unpaid as of the beginning of the quarter.

(n) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited ~~in~~ *into* the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, moneys collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the federal Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (5) of subdivision (a) shall be deposited ~~in~~ *into* the Waste Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) 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.

(o) The state board shall continuously report and update information on its ~~Internet Web site~~ *internet website*. The state board shall report annually on or before December 31 regarding its enforcement activities. The information shall include all of the following:

(1) A compilation of the number of violations of waste discharge requirements in the previous calendar year, including stormwater enforcement violations.

(2) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions.

(3) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

(p) The amendments made to subdivisions (f), (h), (i), and (j) during the second year of the 2001–02 Regular Session apply only to violations that occur on or after January 1, 2003.

SEC. 21. 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 ~~to waters of the United States~~ 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 ~~he or she~~ *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 separately assessed for each 30-day period following the deadline for submitting the report, if both of the following conditions are met:

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

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

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

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

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

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

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

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

(2) Notwithstanding Section 13340 of the Government Code, the funds described in paragraph (1) are continuously appropriated, without regard to fiscal years, to the state board for expenditure by the state board to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of 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. 22. Section 13387 of the Water Code is amended to read:

13387. (a) Any person who knowingly or negligently does any of the following is subject to criminal penalties as provided in subdivisions (b), (c), and (d):

(1) Violates Section ~~13375~~ 13264, 13375, or 13376.

(2) Violates any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the *federal* Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1328, 1341, or 1345), as amended.

(5) Introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substances that the person knew or reasonably should have known could cause personal injury or property damage.

(6) Introduces any pollutant or hazardous substance into a sewer system or into a publicly owned treatment works, except in accordance with any applicable pretreatment requirements, which causes the treatment works to violate waste discharge requirements.

(b) Any person who negligently commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than twenty-five thousand dollars (\$25,000), for each day in which the violation occurs, by imprisonment for not more than one year in a county jail, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, subdivision (c), or subdivision (d), punishment shall be by a fine of not more than fifty thousand dollars (\$50,000) for each day in which the violation occurs, by imprisonment

pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months, or by both that fine and imprisonment.

(c) Any person who knowingly commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than fifty thousand dollars (\$50,000), for each day in which the violation occurs, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision or subdivision (d), punishment shall be by a fine of not more than one hundred thousand dollars (\$100,000) for each day in which the violation occurs, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, four, or six years, or by both that fine and imprisonment.

(d) (1) Any person who knowingly commits any of the violations set forth in subdivision (a), and who knows at the time that the person thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine of not more than two hundred fifty thousand dollars (\$250,000), imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 5, 10, or 15 years, or by both that fine and imprisonment. A person that is an organization shall, upon conviction under this subdivision, be subject to a fine of not more than one million dollars (\$1,000,000). If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, the punishment shall be by a fine of not more than five hundred thousand dollars (\$500,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 10, 20, or 30 years, or by both that fine and imprisonment. A person that is an organization shall, upon conviction for a violation committed after a first conviction of the person under this subdivision, be subject to a fine of not more than two million dollars (\$2,000,000). Any fines imposed pursuant to this subdivision shall be in addition to any fines imposed pursuant to subdivision (c).

(2) In determining whether a defendant who is an individual knew that the defendant's conduct placed another person in imminent danger of death or serious bodily injury, the defendant is responsible only for actual awareness or actual belief that the defendant possessed, and knowledge possessed by a person other than the defendant, but not by the defendant personally, cannot be attributed to the defendant.

(e) Any person who knowingly makes any false statement, representation, or certification in any record, report, plan, notice to comply, or other document filed with a regional board or the state board, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, punishment shall be by a fine of not more than twenty-five thousand dollars (\$25,000) per day of violation, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years, or by both that fine and imprisonment.

(f) For purposes of this section, a single operational upset~~which~~ *that* leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(g) For purposes of this section, "organization," "serious bodily injury," "person," and "hazardous substance" shall have the same meaning as in Section 309(c) of the *federal* Clean Water Act (33 U.S.C. Sec. 1319(c)), as amended.

(h) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited~~in~~ *into* the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, fines collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the *federal* Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (4) of subdivision (a) shall be deposited~~in~~ *into* the Water Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) 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.

SEC. 23. This bill is not intended to modify or weaken existing protections. In the event of a conflict between the provisions of this bill and any existing state law or regulation, the more stringent provision shall prevail.

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

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.