

Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 1313 (Papan) – As Amended March 24, 2025

**SUBJECT:** Water quality: permits

**SUMMARY:** Requires the State Water Resources Control Board (State Water Board) to establish, as provided, a statewide commercial, industrial, and institutional National Pollutant Discharge Elimination System (NPDES) order to regulate stormwater and authorized non-stormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally-protected surface waters. Specifically, **this bill:**

- 1) Requires the State Water Board, after making the necessary findings, to establish a statewide commercial, industrial, and institutional NPDES order for properties of five acres or more, pursuant to specified federal laws and regulations under the Clean Water Act (CWA), to regulate stormwater and authorized non-stormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally-protected surface waters, as determined by the State Water Board.
- 2) Requires the State Water Board to publish a draft of the statewide NPDES order for public comment on or before December 31, 2028, or 18 months after reissuance of the statewide General Permit for Stormwater Discharges Associated with Industrial Activities, whichever is later.
- 3) Requires the State Water Board to contemporaneously develop a model memorandum of understanding to issue with publication of the draft statewide NPDES order for public comment, which details the necessary components of an agreement between commercial, industrial, and institutional permittees and local municipalities, to achieve offsite stormwater capture and use pursuant to the adopted final statewide commercial, industrial, and institutional NPDES order.
- 4) Requires the statewide NPDES order to include multiple options for achieving compliance with water quality standards, including, but not limited to, compliance options incentivizing onsite or offsite stormwater capture and use.
- 5) Prohibits regulated stormwater permittees from being subject to more than one stormwater NPDES order issued for the same facility pursuant to federal laws and regulations under the CWA.
- 6) Requires all effluent limitations applicable to stormwater discharges associated with industrial activities to be incorporated into the statewide commercial, industrial, and institutional NPDES order.
- 7) Specifies that AB 1313's provisions do not apply to stormwater discharges associated with construction activities.

**EXISTING LAW:**

- 1) Establishes the federal CWA to regulate discharges of pollutants into the waters of the United States (U.S.) and to regulate quality standards for surface waters. (33 United States Code (USC) § 1251, et seq.)
- 2) Establishes, under the CWA, the NPDES permit program, requiring the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to prescribe waste discharge requirements that, among other things, regulate the discharge of pollutants into stormwater. (33 USC § 1342)
- 3) Requires operators, on and after October 1, 1994, for discharges composed entirely of stormwater, to obtain an NPDES permit under the CWA only if:
  - a) The discharge is from a small municipal separate storm sewer systems (MS4), as specified;
  - b) The discharge is a stormwater discharge associated with small construction activity;
  - c) The Director, or in states with approved NPDES programs, either the Director or the United States Environmental Protection Agency (US EPA) Regional Administrator, determines that stormwater controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutants of concern; or,
  - d) The Director, or in states with approved NPDES programs, either the Director or the US EPA Regional Administrator, determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the U.S. (40 Code of Federal Regulations (CFR) § 122.26(a)(9)(i)(D))
- 4) Defines, under the CWA, "Director" to mean the US EPA Regional Administrator or the State Director, as the context requires, or an authorized representative; when there is an approved state program, federal regulations state that "Director" normally means the State Director, but notes that in some circumstances, US EPA retains the authority to take certain actions even when there is an approved state program, in which case, "Director" means the US EPA Regional Administrator and not the State Director. (40 CFR § 122.2)
- 5) Establishes the Porter-Cologne Water Quality Control Act (Porter-Cologne), which prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Board; declares that the health, safety, and welfare of people require there to be a statewide program for water quality control and that the statewide program for water quality control can be most effectively administered regionally, within a framework of statewide coordination and policy. (Water Code (WC) § 13000, et seq.)
- 6) Establishes the State Water Board and nine Regional Water Boards to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. (WC § 13100, et. seq.)

- 7) Prohibits the discharge of waste or pollutants to surface and ground waters unless the discharger obtains a permit from the State Water Board or a Regional Water Board. (WC § 13260, et seq.)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the bill:* According to the author:

"AB 1313 is a crucial step toward addressing the urgent issue of stormwater pollution in California. Stormwater runoff, particularly in urban areas, carries harmful pollutants that disproportionately affect disadvantaged communities. While commercial properties play a significant role in contributing to water pollution, the burden of protection has largely fallen to local cities and counties. By establishing a statewide Commercial, Industrial, and Institutional Stormwater Permit, AB 1313 will create a framework that holds commercial facilities accountable for their contributions to pollution. This is not just an environmental issue; it is a matter of equity and justice for those living in vulnerable neighborhoods who face the greatest risks from contaminated water."

*Why is stormwater pollution a problem?* The US EPA defines stormwater as runoff generated when precipitation from rain and snowmelt flows over land or impervious surfaces, without percolating into the ground. Polluted stormwater runoff—which emerges when precipitation mixes with trash, cigarette butts, animal waste, pesticides, motor oil, and other contaminants, creating a toxic soup—is a major environmental and public health issue. It leads to unsanitary living environments; unhealthy surface waters, such as lakes, creeks, and rivers; and unhealthy ocean and beach conditions. According to the State Water Board, in most cases, stormwater flows directly to water bodies through sewer systems, contributing a major source of pollution to rivers, lakes, and oceans.

*Stormwater runoff and impervious surfaces:* Impervious surfaces, such as parking lots, can prevent stormwater from absorbing into the ground, increasing the amount of stormwater runoff and the mobilization of pollutants. A technical assistance memo, "LID parking lots," (put together by the Central Coast Regional Water Board; the University of California, Davis Low Impact Development Initiative; and Skeo Solutions) describes this issue:

"Before California was developed, the natural landscape, vegetation, and soils were virtually undisturbed. Under these pre-development conditions, as much as 50% of rainwater was infiltrated into the soil replenishing groundwater supplies, contributing to stream flows and sustaining vegetation; another 40% was released into the atmosphere through evapotranspiration. Only about 10% of rainwater contributed to stormwater runoff (rainwater that flows over the land surface). Today, our urban landscape has more impervious surfaces (hard surfaces that do not allow water to pass through) such as roofs, streets, sidewalks and parking areas. The increase in impervious surfaces has caused the amount and rate of stormwater runoff to be greater than pre-development conditions. These increased stormwater flows can cause flooding, road damage and erosion to natural streams and rivers. Runoff also carries pollutants from the surrounding watershed such as pesticides, bacteria, oils, metals and sediments that can make waters unsafe for recreational use and wildlife."

*Stormwater as a resource:* Stormwater can also act as a resource and recharge groundwater when properly managed. The Pacific Institute, in its 2024 report, *Untapped Potential: An Assessment of Urban Stormwater Runoff Potential in the United States*, states that the risk of water scarcity is increasing across the country, due to rising pressures on traditional water sources, such as rivers, streams, and underground aquifers. Pressures include population and economic growth and the intensifying effects of climate change. These challenges are prompting water providers to develop new, alternative water supply strategies, such as reusing treated wastewater and capturing urban stormwater runoff.

In recent years, California has started to shift towards managing stormwater as a critical resource. Governor Gavin Newsom's 2022 "Water Supply Strategy: Adapting to a Hotter, Drier Future" contains a goal for California to support local stormwater capture projects, to diversify the state's water supply, and to take advantage of high flows during storm events. In its 2015 "Storm Water Resource Plan Guidelines," (2015 Guidelines) the State Water Board describes the benefits of this shift, stating that:

"Increasing storm water and dry weather runoff capture and infiltration restores lost watershed processes and provides multiple tangible and intangible benefits, including but not limited to: improved water supply sustainability, increased groundwater supplies, increased base-flow in creeks, increased riparian tree canopy providing a cooling effect on the earth's surface, reduced greenhouse gas emissions inherent in water transport and treatment, reduced local flooding, reduced pollutant loads discharged to surface waters, restored native habitat, and increased recreational and green space."

*The NPDES Permit Program:* As authorized by the federal CWA, the NPDES Permit Program controls water pollution by regulating point sources—or discrete conveyances such as pipes, or human-made ditches—that discharge pollutants into waters of the U.S. Examples of pollutants include, but are not limited to, rock, sand, dirt, and agricultural, industrial, and municipal waste. In California, implementation of the NPDES Permit Program has been delegated to the State Water Board and nine Regional Water Boards, which maintain regional jurisdiction within boundaries that are based on major watersheds. While the State Water Board has issued some NPDES permits, the Regional Water Boards issue the vast majority of NPDES permits in the state and ensure compliance with their permits through inspections, monitoring report reviews, and enforcement actions.

Because of their propensity to contain and mobilize pollutants, stormwater discharges are regulated through NPDES permits. The State Water Board oversees three statewide NPDES stormwater programs: the Industrial Stormwater Program, Construction Stormwater Program, and Municipal Stormwater Program. Below is a description of each:

- **Industrial Stormwater Program:** The Industrial General Permit (IGP) regulates industrial stormwater discharges and authorized non-stormwater discharges from industrial facilities in California. The IGP is called a "general permit" because many industrial facilities are covered by the same permit, but comply with its requirements at their individual industrial facilities. Industrial facilities such as manufacturers, landfills, mining, steam-generating electricity, hazardous waste facilities, transportation with vehicle maintenance, larger sewage and wastewater plants, recycling facilities, and oil and gas facilities are typically required to obtain IGP coverage;

- **Construction Stormwater Program:** Certain dischargers—those with projects that disturb one or more acres of soil, or projects that disturb less than one acre, but are part of a larger common plan of development that in total disturbs one or more acres—are required to obtain coverage under the "General Permit for Discharges of Stormwater Associated with Construction Activity" (Construction General Permit). Construction activities subject to this permit include clearing, grading, and disturbances to the ground such as stockpiling or excavation. They do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer; and,
- **Municipal Stormwater Program:** The State Water Board regulates stormwater discharges from MS4s throughout California. US EPA defines an MS4 as a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, or storm drains. Under Phase I of the Municipal Stormwater Program, Regional Water Boards have adopted NPDES permits to regulate discharges from MS4s serving municipalities with over 100,000 people; under Phase II, the State Water Board has issued a waste discharge requirement to regulate discharges from small MS4s serving municipalities with less than 100,000 people.

*Regulating discharges from commercial, industrial, and institutional facilities:* This bill proposes adding a fourth type of NPDES permit to California's repertoire of statewide NPDES orders. It does this by requiring the State Water Board to establish a statewide commercial, industrial, and institutional NPDES order for properties of five acres or more, to regulate stormwater and authorized non-stormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally-protected surface waters.

The CWA and related regulations define specific construction, industrial, and municipal stormwater sources that must be authorized by an NPDES permit. Not all sources or activities of stormwater runoff are regulated under the CWA. However, according to the US EPA, the CWA also recognizes that other sources may need to be regulated on a case-by-case or category-by-category basis, based on additional information or localized conditions. The authority to regulate other sources based on the localized adverse impact of stormwater on water quality through NPDES permits is commonly referred to as the "Residual Designation Authority," established under 40 CFR § 122.26(a)(9)(i)(D). Under the CWA, Residual Designation Authority can be exercised to require NPDES permits on a case-by-case basis, when discharges are determined to contribute to a violation of water quality standards, or when discharges are identified as significant contributors of pollutants to federally protected surface waters. This authority can also be used if there is a determination that controls are needed for a discharge, based on TMDLs (a TMDL is a calculation of the maximum amount of a pollutant allowed to enter a waterbody, to ensure compliance with water quality standards). Designation can also be requested by petition.

*Federal action on pollution in two California watersheds:* In response to petitions (submitted to Region 9 of the US EPA (Region 9) in 2015), a subsequent court case, and a 2018 District Court order, Region 9 is using its Residual Designation Authority to add requirements for certain stormwater sources that discharge into two watersheds in Los Angeles County: the Alamitos Bay/Los Cerritos Channel Watershed and the Dominguez Channel and Los Angeles/Long Beach Inner Harbor Watershed. The final designation is specifically designed to require privately-owned commercial, industrial, and institutional facilities to obtain NPDES permits for

stormwater runoff. Region 9 states that both watersheds are impaired due to elevated levels of copper and zinc, and TMDLs have been established to define needed reductions of these pollutants, to restore water quality and beneficial uses of the watersheds. According to Region 9, in a November 2024 memo explaining the Final Designation: "the record demonstrates that stormwater discharges from the [commercial, industrial, and institutional] sources...contribute to violations of water quality standards...The Final Designation will require permit coverage for discharges from approximately 600 facilities and will significantly reduce discharges of pollutants of concern, including metals." Once designated, these sites will be required to obtain coverage under an NPDES permit.

Region 9 is partnering with the Los Angeles Regional Water Quality Control Board (Los Angeles Regional Water Board), which is in the process of developing a new NPDES general permit, to provide coverage for all commercial, industrial, and institutional facilities in the two Los Angeles County watersheds designated by Region 9's action. Describing the rationale for a new permit, the Los Angeles Regional Water Board states on its website, "Storm Water—Commercial, Industrial and Institutional (CII) Permit" (last updated January 28, 2025):

"The Los Angeles Regional Water Board and US EPA are considering potential regulatory requirements for stormwater runoff from certain commercial, industrial, and institutional (CII) facilities in the Dominguez Channel/Greater Los Angeles and Long Beach Harbor Watershed and the Los Cerritos Channel/Alamitos Bay Watershed to reduce pollutant levels in stormwater runoff that flows from these facilities. These waterbodies are currently polluted by numerous chemicals, including copper and zinc, which can harm aquatic life, ecosystems, and human health. Impervious surfaces such as streets, parking lots, rooftops, and sidewalks collect a variety of pollutants."

A draft NPDES permit, released by the Los Angeles Regional Water Board, would apply to, among other things, stormwater discharges and authorized non-stormwater discharges from unpermitted commercial, industrial, and institutional sites with five or more acres of impervious surfaces. This language is very similar to the provisions in AB 1313.

*Recent Supreme Court decision on NPDES permits:* On March 4, 2025, the Supreme Court issued a decision on *City and County of San Francisco, California v. Environmental Protection Agency*, in which San Francisco challenged US EPA's discharge regulations for being too vague, after the US EPA and State Water Board brought a civil complaint in federal court against the city alleging numerous CWA violations relating to sewage spills during storms. The Opinion of the Supreme Court states the following:

"For many years, San Francisco's NPDES permit for its Oceanside facility was renewed without controversy, but in 2019, the [US EPA] issued a renewal permit that added two end-result requirements...The first of these prohibits the facility from making any discharge that 'contribute[s] to a violation of any applicable water quality standard' for receiving waters...The second provides that the City cannot perform any treatment or make any discharge that 'create[s] pollution, contamination, or nuisance as defined by California Water Code section 13050.'...San Francisco argued that the end-result requirements exceed [US EPA's] statutory authority..."

The Supreme Court further states that "this case involves provisions that do not spell out what a permittee must do or refrain from doing; rather, they make a permittee responsible for the quality

of the water in the body of water into which the permittee discharges pollutants. When a permit contains such requirements, a permittee that punctiliously follows every specific requirement in its permit may nevertheless face crushing penalties if the quality of the water in its receiving waters falls below the applicable standards."

Ultimately, the Supreme Court decided in favor of San Francisco, concluding that the two challenged provisions exceed US EPA's authority because they would make San Francisco responsible for the quality of the water receiving its discharge—which the Supreme Court argues San Francisco cannot control—instead of regulating the quality of the water that San Francisco discharges. The Supreme Court further concludes that the CWA "does not authorize the EPA to include 'end-result' provisions in NPDES permits." The implications of this Supreme Court decision on the structure of existing and future NPDES permits remains unclear.

*This bill:* AB 1313 requires the State Water Board to establish a statewide commercial, industrial, and institutional NPDES order, to regulate stormwater and authorized non-stormwater discharges from facilities with impervious surfaces that are significant contributors of pollutants to federally-protected surface waters. Stormwater is complex, both as a source of pollution and as a potential resource. Bills like AB 1313 can help drive forward critical conversations about how best to manage stormwater, in ways that serve the dual goals of reducing pollution and meeting California's water needs.

*Policy considerations:* Increasing stormwater capture and pollution management will be critical for the future of California's drinking water supplies and water quality. AB 1313 aims to address sources of stormwater runoff that are currently unregulated under the CWA. This bill models its approach on the Los Angeles Regional Water Board's efforts to develop an NPDES permit, which will regulate stormwater runoff from impervious surfaces associated with commercial, industrial, and institutional facilities. The Los Angeles Regional Water Board's work is grounded in the US EPA's use of Residual Designation Authority, established under the CWA, for two watersheds in Los Angeles County. Groups in an opposed-unless-amended position have expressed a concern that the State Water Board does not have the authority to issue a statewide NPDES permit for entities not currently regulated under the CWA, unless the US EPA similarly exercises its Residual Designation Authority for the state of California. As this bill moves forward, the author may wish to continue discussions with stakeholders to further investigate this question, as well as whether there are options for addressing stakeholders' concerns relating to potential administrative and legal burdens for municipalities and local businesses.

*Arguments in support:* According to a coalition of environmental organizations in support:

"Commercial properties and other facilities with large parking lots are a significant contributor of pollution. These large parking lots are known sources for toxic metals, oil, grease, and trash. The Clean Water Act currently does not regulate commercial parking lots leaving a gap in California's stormwater program. Since commercial facilities are not regulated under the Clean Water Act, their pollution unfairly becomes the responsibility of the local government. Local governments are already hindered by Proposition 218, which restricts raising funds to address their own stormwater pollution, let alone the contributions of commercial pollution.

AB 1313 would require the development of a statewide Commercial Stormwater Permit to regulate commercial properties that are large enough to be a significant contributor of

pollution (ex: Costco parking lots, malls, Amazon fulfillment centers). The bill would require commercial properties to address their contribution of pollution and incentivize compliance with their stormwater permit through building green space on-site or by helping to fund a regional green space that would capture and infiltrate the community's stormwater runoff and treat it as a resource instead of a liability.

By including commercial properties as part of California's stormwater program, it would shift the burden and cost of cleaning up our most polluted waters from local governments and industrial facilities, to balance the responsibility between all parties, including commercial properties."

*Arguments in opposition:* According to the California Stormwater Quality Association, California Chamber of Commerce, and the League of California Cities:

"The California Stormwater Quality Association (CASQA) and the organizations listed are strong supporters of the goals of advancing stormwater capture and identifying novel solutions to fund that critical infrastructure. This bill aims to advance those goals, and we are grateful for the author's leadership on this important conversation. However, we are concerned that the approach may actually result in significant unintended consequences to local governments and the business community and it is worth further review and discussion. Our primary concerns are ensuring that there is legal authority to issue the permit and adequate time and public participation to develop a permit, another regulatory tool, that is appropriate for statewide implementation...

#### REQUESTED AMENDMENTS

Replace the existing approach of AB 1313 with the following:

- In lieu of requiring a draft order by December 31, 2028, require the initiation of the public workshop process to explore options for municipalities and the business community to partner on increasing stormwater capture (e.g., identify effective tools and regulatory options). Such a process is standard and critical for all statewide permitting and policy setting efforts to ensure adequate stakeholder feedback and engagement.
- To ensure a feasible path to compliance, require the initiation of the process contingent upon receiving the legal permitting authority from USEPA.
- Report back to the Legislature

Appropriate Funds:

- Require all aspects of AB 1313 to be contingent upon appropriations from the legislature."

Thank you for considering the concerns of the stormwater community. As stated, we share the same goal of the author and are willing to put in the time and effort to come up with a feasible approach to ensure the proper tool is enacted to capture more stormwater in California communities."

*Related legislation:*



1) AB 638 (C. Rodriguez, 2025). Requires, on or before June 1, 2026, the State Water Board to establish guidance for stormwater capture and use for the irrigation of urban public lands. This bill is pending before the Assembly Appropriations Committee.

2) AB 1567 (E. Garcia, 2024). Would have placed a \$16 billion climate resilience general obligation bond before the voters on the March 5, 2024 Primary Election ballot. This bill was held in the Senate Natural Resources and Water Committee.

3) SB 867 (Allen, Chapter 83, Statutes of 2024). Enacted the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, which, once approved by voters (via Proposition 4), authorized the issuance of bonds in the amount of \$10 billion, including \$110 million for grants for multi-benefit urban stormwater management projects.

4) AB 2106 (R. Rivas, 2022). Would have required the State Water Board to modernize its stormwater tracking system, on or before December 31, 2025, and to establish a statewide commercial, industrial, and institutional NPDES order. This bill was vetoed by the Governor.

5) AB 1471 (Rendon, Chapter 188, Statutes of 2014). Enacted the Water Quality, Supply, and Infrastructure Improvement Act of 2014, which, once approved by voters (via Proposition 1), authorized the issuance of bonds to finance a water quality, supply, and infrastructure improvement program.

6) SB 985 (Pavley, Chapter 555, Statutes of 2014). Made changes to the state's Stormwater Resource Planning Act, including the addition of statute that authorizes the development of stormwater resource plans by one or more public agencies; requires that the plans identify and prioritize stormwater and dry weather runoff capture projects for implementation; specifies that the development of a plan and compliance with the Stormwater Resource Planning Act is required to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by voters after January 1, 2014; and required the State Water Board to establish, by July 1, 2016, guidance for implementation of the Stormwater Resource Planning Act.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Batiquitos Lagoon Foundation  
California Coastkeeper Alliance  
California Marine Sanctuary Foundation  
Center for Biological Diversity  
Citizens for Los Angeles Wildlife  
Defenders of Wildlife  
Endangered Habitats League  
Environmental Action Committee of West Marin  
Environmental Center of San Diego  
Environmental Protection Information Center  
Fish On  
Friends of Ballona Wetlands  
Friends of the River  
Golden Gate Bird Alliance

Humboldt Waterkeeper  
Inland Empire Waterkeeper  
Los Angeles Neighborhood Land Trust  
Los Angeles Waterkeeper  
Monterey Waterkeeper  
Orange County Coastkeeper  
Russian Riverkeeper  
San Diego Coastkeeper  
San Francisco Baykeeper  
Santa Barbara Channelkeeper  
Save the Bay  
Social Eco Education  
Seventh Generation Advisors  
Shasta Waterkeeper  
Sierra Club California  
SoCal 350 Climate Action  
South Yuba River Citizens League  
Surfrider Foundation  
The Otter Project  
Water Climate Trust  
Yuba River Waterkeeper

**Opposition**

CalChamber  
California Stormwater Quality Association  
League of California Cities

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