



May 9, 2025

TO: Assembly Appropriations Committee

SUBJECT: AB 1313 (PAPAN) water quality: permits
OPPOSE – AMENDED ON MARCH 24, 2025

Dear Chair Wicks and Member of the Committee,

The California Chamber of Commerce and the organizations listed below must respectfully **OPPOSE AB 1313 (Papan)**, which would mandate that the State Water Resources Control Board (State Water Board) develop permits for stormwater discharges from “commercial, industrial, and institutional” (CII) facilities under its delegated authority to administer the federal Clean Water Act. The costs for CII facilities to comply with this permit would be substantial, and in many regions of the state, it is likely compliance would be infeasible. This permit would be enforceable through a private right of action, and given the challenges many entities would face in trying to comply, it is likely citizen suits would become pervasive throughout the state. Entities required to obtain this permit would include businesses, non-profit organizations, hospitals, schools and universities, places of worship, libraries, and many more. **AB 1313** would likely worsen California’s affordability crisis, as compliance costs would be passed onto consumers. The heaviest burdens of this bill would fall on disadvantaged communities. Finally, in addition to the cost and feasibility concerns of a statewide CII permit, the State Water Board likely lacks the legal authority to issue this permit.

AB 1313 would impose an unworkable statewide mandate based on an unproven, incomplete regional permit that has faced significant technical, financial, and administrative challenges

AB 1313 is modeled after a draft National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements being developed for CII facilities located within two watersheds in the Los Angeles region—Dominguez Channel/Greater Los Angeles and Long Beach Harbor Watershed and the Los Cerritos Channel/Alamitos Bay Watershed. This permit, which is the first-of-its-kind in the United States, has been under development for more than four years, and it is unclear when it will be completed. This underscores the difficulties of developing a CII permit, even at a watershed level. Just within those two watersheds, it’s estimated the permit will be required for close to 650 individual properties. The permit

required in **AB 1313** would apply to an unknown number of entities but would likely range from tens of thousands to over a hundred thousand properties.

Stakeholders within those two watersheds have raised concerns that the Draft CII permit rests on insufficient technical grounds and would require the adoption of technologies that have not been demonstrated to be available and implementable. **It is estimated that compliance costs would range from tens of thousands to millions of dollars for each property owner.** These costs would be unbearable for many entities and worsen California's already challenging business climate.

The bill would require the creation of a template Memorandum of Agreement (MOA) that would be used by local municipalities to enter into legally binding agreements with CII facilities to fund or partially fund regional stormwater projects. Stakeholders within the two Los Angeles region watersheds have noted that there may not be sufficient regional projects for all the affected properties to fund, meaning many properties would need to utilize alternative compliance options. This may include building on-site stormwater capture infrastructure, which may be exceedingly expensive or infeasible if the property lacks sufficient space for such infrastructure. This would also create a significant administrative burden for municipalities that would need to enter into individual agreements with potentially hundreds of property owners, and it is unknown how much municipalities would charge each CII facility. It is unlikely this pathway for compliance could be replicated within many watersheds throughout the state.

Additionally, **AB 1313** would burden the State Water Board with a large regulatory program that would need to be developed from the ground up, implemented, and enforced. This program would bring in numbers of entities and facility types that were not previously permitted by the State Water Board and would require significant resources to administer. For example, though the bill would only apply to those CII facilities that are "significant contributors" of pollutants to jurisdictional waters, it is unclear how it would be determined whether a facility meets this standard. This adds to the administrative burden of developing this program and ensuring it is clear enough for businesses and other entities to determine whether they are required to obtain permit coverage.

AB 1313 would unleash a wave of predatory litigation, as the permit created by this bill includes a private right of action

NPDES permits are creations of the federal Clean Water Act, which the State Water Board administers in California. Unlike state law governing water quality, the federal Clean Water Act includes a citizen lawsuit provision, allowing average citizens to bring enforcement actions in federal courts. Currently, NPDES permits for stormwater discharges only exist for industrial facilities, as defined, municipal storm sewer systems, and construction activities. CII facilities are not required to obtain an NPDES for stormwater, and thus are not exposed to the risk of litigation under the Clean Water Act.

Like other private rights of action, citizen lawsuits under the Clean Water Act begin with a demand letter and may result in full-scale civil litigation if the matter is not settled. Settling these lawsuits can cost tens if not hundreds of thousands of dollars, and litigation drives up these costs even further. In California, many Clean Water Act cases are threatened or filed annually against existing permittees.

AB 1313 greatly expands the universe of entities that will become targets of citizen suits. The scope of facilities subject to this new permitting requirement is broad and largely undefined. It is likely to include essentially any commercial property with paved surfaces, such as shopping malls, grocery stores, other retail, and more. It will also likely include facilities such as stadiums, hospitals, schools, universities, and many more. Given the number of entities this permit would capture, coupled with compliance challenges, **AB 1313** would likely spawn a cottage industry of plaintiff attorneys dedicated solely to enforcing this permit.

California likely lacks the legal authority to issue a statewide CII NPDES permit

Under the Clean Water Act (CWA), authority to issue National Pollutant Discharge Elimination System (NPDES) permits is delegated by the U.S. Environmental Protection Agency (EPA) to qualifying states, including California. While the EPA and its designees may use Residual Designation Authority (RDA) to

require NPDES permits for specific discharges that contribute to water quality impairments, this authority is narrowly tailored: it is intended to address discharges within specific watersheds or geographic areas where there is evidence of a water quality violation. It does not confer blanket authority to require permits for entire categories of dischargers across an entire state absent such findings.

California currently lacks the legal authority to issue a statewide NPDES permit for all CII facilities of five acres or more without conducting a discharge-specific or region-specific analysis, as required by federal law. A categorical, statewide designation would exceed the scope of RDA, which requires a factual showing that discharges from the designated sources are contributing to violations of water quality standards in specific water bodies. Without a watershed-by-watershed basis for designation and without a formal finding of significant contribution to impairment, a statewide permit would not be supported under current Clean Water Act authorities and would be vulnerable to legal challenge as an overextension of delegated NPDES powers. The current RDA to develop the pending NPDES permit is limited to the two watersheds in the Los Angeles region. The EPA did not extend this authority statewide.

We encourage a review of alternative measures to fund regional stormwater infrastructure

We appreciate the author's leadership on this issue and want to be constructive partners in finding ways to scale-up stormwater capture. The California Stormwater Quality Association (CASQA) has requested a series of amendments that would 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 US. EPA.
- Report back to the Legislature.
- Require all aspects of **AB 1313** to be contingent upon appropriations from the legislature.

These proposed amendments would allow for a holistic review of options to increase stormwater capture in California communities.

For these and other reasons, we respectfully **OPPOSE AB 1313 (Papan)**.

Sincerely,



Kristopher Anderson
Policy Advocate
On behalf of

Brea Chamber of Commerce, Lacy Schoen
California Association of Winegrape Growers, Michael Miiller
California Building Industry Association, Cliff Moriyama
California Chamber of Commerce, Kristopher Anderson
California Construction and Industrials Materials Association, Robert Dugan
California League of Food Producers, Katie Little
California Grocers Associations, Daniel Conway
California Retailers Associations, Ryan Allain
Carlsbad Chamber of Commerce, Bret Schanzenbach

Colusa Chamber of Commerce, Jack Cunningham
Conejo Valley Chamber of Commerce, Josh Gray
El Dorado County Chamber of Commerce, Laurel Brent-Bumb
Gilroy Chamber of Commerce, Michelle Carlin
Greater San Fernando Valley Chamber of Commerce, Nancy Hoffman Vanyek
Imperial Valley Regional Chamber of Commerce, Sher Cowie
Industrial Environmental Associations, Jack Monger
La Cañada Flintridge Chamber of Commerce, Pat Anderson
Laguna Niguel Chamber of Commerce, Teresa Schickling
Livermore Chamber of Commerce, Sherri Souza
Long Beach Chamber of Commerce, Celeste Wilson
Mission Viejo Chamber of Commerce, Dave Benson
Newport Beach Chamber of Commerce, Steve Rosansky
Orange County Business Council, Amanda Walsh
Palos Verdes Peninsula Chamber of Commerce, Eileen Hupp
Paso Robles and Templeton Chamber of Commerce, Gina Fitzpatrick
Rancho Cucamonga Chamber of Commerce, Robert Hufnagel
Rancho Mirage Chamber of Commerce, Katie Slimko
Ridgecrest Chamber of Commerce, Rebecca McCourt
Roseville Chamber of Commerce, Amy Triplett
San Juan Capistrano Chamber of Commerce, Benjamin Medina
Santa Ana Chamber of Commerce, Dave Elliott
The Greater High Desert Chamber of Commerce, Mark Creffield
Torrance Area Chamber of Commerce, Donna Duperron
Tulare Chamber of Commerce, Donnette Silva Carter
Western Wood Preservers Institute, Ryan Pessah
Wine Institute, Noelle Cremers

cc: Legislative Affairs, Office of the Governor
Caitlin Voorhees, Office of Assemblymember Diane Papan
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