
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Blakespear, Chair

2025 - 2026 Regular

Bill No: SB 1081
Author: Laird
Version: 2/13/2026
Urgency: No
Consultant: Taylor McKie

Hearing Date: 4/8/2026
Fiscal: Yes

SUBJECT: Waste discharge requirements: minimum penalties: exception: publicly owned treatment works

DIGEST: This bill expands the eligibility for publicly owned treatment works (POTW) to contribute assessed mandatory minimum penalties (MMP) towards compliance projects to POTWs that serve a community of 3,000 residents or fewer.

ANALYSIS:

Existing federal law:

- 1) Establishes the federal Clean Water Act (CWA) to regulate discharges of pollutants into the waters of the United States and to regulate quality standards for surface waters. (33 United States Code (USC) §1251 et seq.)
- 2) Establishes the National Pollutant Discharge Elimination System (NPDES) permit program which requires the State Water Board and the nine Regional Water Boards to prescribe waste discharge requirements that, among other things, regulate the discharge of pollutants into stormwater, including municipal stormwater systems. (33 USC § 1342)

Existing state law:

- 1) 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 Resources Control Board (State Water Board). (Water Code (WC) § 13000 et seq.)
- 2) Specifies requirements subject to civil liability and administrative civil liability if violated, liability amounts under specified circumstances, and conditions under which violations must be treated. (WC § 13385)

- 3) Requires a mandatory minimum penalty (MMP) of \$3,000 be assessed for each serious violation, which includes a violation of effluent limitations as specified (WC § 13385(h))
- 4) Requires an MMP to be assessed for specified chronic violations (four or more violations in a period of six consecutive months). (WC § 13385(i))
- 5) Authorizes the State Water Board or a regional board to require a POTW serving a small community to spend an equivalent amount of their mandatory minimum penalties towards a compliance project in lieu of assessing the MMP. (WC § 13385(k))
 - a) Provides that a POTW serving a small community means a POTW serving a population of 20,000 persons or fewer or a rural county, with a financial hardship as determined by the State Water Board.
- 6) Authorizes the State Water Board or a regional board to direct a portion of an MMP to be expended on a supplemental environmental project (SEP) in lieu of assessing the MMP. (WC § 13385(l))

This bill expands the definition of a “POTW serving a small community” to include a POTW serving a community of 3,000 residents or fewer, regardless of financial hardships.

Background

- 1) *Enforcing the Clean Water Act.* The CWA prohibits any entity from discharging pollutants from a point source into a Water of the United States without a NPDES permit, which prescribes limits on what can be discharged, require monitoring and reporting to regulatory agencies, and may impose best management practices.¹ POTWs are wastewater treatment facilities that treat domestic and/or industrial wastewater and hold NPDES permits.

If a permitted discharger, such as a POTW, violates a condition set in its permit, such as exceeding an effluent limitation or a failure to report, they are subject to civil and administrative liability and may face monetary penalties. For specified violations of an NPDES permit, an administrative civil liability for the mandatory minimum penalty (MMP) of \$3,000 or more is required to be assessed by the State or Regional Water Boards. These types of penalties are deposited into the State Water Pollution Cleanup and Abatement Account.

¹ U.S. Environmental Protection Agency. (2021). [NPDES Permit Basics](#).

The State and Regional Water Boards prioritize enforcement and strive to ensure that enforcement is firm, fair, and consistent across the state. Enforcement actions taken in response to violations are intended to be consistent amongst violations that are similar in nature and have similar water quality impacts. They are also meant to ensure a discharger returns to compliance in a timely manner.² The policy framework around enforcement influences the nature and frequency of how MMPs are issued.

- 2) *Mandatory minimum penalties.* Prior to the establishment of MMPs, the issuance of enforcement actions and penalties were at the discretion of the State Water Board and nine Regional Water Boards, which led to an uneven assessment of penalties for violations.³ SB 709 (Committee on Budget and Fiscal Review, Chapter 93, Statutes of 1999) and further amendments required MMPs of \$3,000 to be assessed for serious or chronically repeated violations, as specified and under prescribed circumstances. MMPs can be assessed for effluent or reporting violations and the penalties are intended to bring the permitted facilities into compliance with their NPDES permits. From 2018-2024, the Regional Water Boards have issued over 20,000 MMPs to NPDES permittees leading to millions of dollars deposited in the Cleanup and Abatement Account.⁴

The State and Regional Water Boards have the authority to divert all or a portion of the assessed MMPs to related projects that will be conducted by the violator. For any permitted discharger, a portion of the MMP can be allocated towards a supplemental environmental project (SEP) instead of being deposited in the Cleanup and Abatement Account. For POTWs, all or a portion of the MMP can be put towards the completion of a compliance project, but only if the POTW serves a small community with a financial hardship.

- 3) *Compliance projects for communities with financial hardships.* For a POTW that serves a small community and has a determined financial hardship, the State or Regional Water Boards are authorized to allow a POTW to put the MMP amount towards the completion of a project that will promote their compliance, instead of assessing the MMP to be deposited in the Cleanup and Abatement Account. This determination is made by the State and Regional Water Boards and depends on a few factors. The POTW must serve a population of 20,000 or fewer or a rural county, and satisfy at least one of the following criteria:

² State Water Board. (2024). [Water Quality Enforcement Policy](#).

³ State Water Board. (2011). [Water Code Violators Held Accountable Under Mandatory Minimum Penalty Law](#).

⁴ State Water Board. (2025). [California Water Boards' Annual Performance Report](#).

- a) The median household income must be less than 80% of the California median household income;
- b) The unemployment rate of the community must be 10% or greater; or,
- c) At least 20% of the population is below the poverty level.

Completed compliance projects would prevent subsequent violations and may be funded primarily through connection and monthly service fees paid for by the residents in the community. If the community suffers from a financial hardship, then ratepayers may be sensitive to rate increases that would support compliance projects or the POTW may receive insufficient funding if residential arrearages (unpaid bills) are high. This may make it difficult for POTWs to fund their compliance projects, and a continued assessment of MMPs may further inhibit a POTW's ability to comply. Hence, this allowance for MMPs to go towards compliance projects promotes POTWs' compliance with their NPDES permits while mitigating the financial burdens on affected POTWs.

Even though the criteria used to determine financial hardship are clear, real-world circumstances that might impact the financial ability of a POTW to comply with its permit can be complex. For example, if the costs of water bills are extreme or the residential arrearage burden is high, the ability of a POTW to invest in its system could be impacted, regardless of whether the financial hardship criteria is met.⁵ A 2022 Drinking Water Assessment conducted by the State Water Board found that water systems serving communities with a median household income greater than 80% of the state's median household income still experienced affordability challenges through indicators such as extreme water bills and high residential arrearages.⁵ In light of such considerations, POTWs can propose a local survey or alternative justification approved by the regional water board if they do not believe the U.S. Census data accurately represents the population they serve. But ultimately, the current statute is limited in its flexibility in determining whether a community faces a financial hardship, and POTWs that experience other forms of financial hardship may not be eligible for compliance projects.

- 4) *The case for San Juan Bautista.* The City of San Juan Bautista, the sponsor of this legislation, owns and operates a wastewater collection, treatment, and reclamation facility that discharges into a drainage channel that flows into a tributary of the San Benito River.⁶ Since 2003, the City has been issued hundreds of MMPs by the Central Coast Regional Water Board for both effluent and reporting violations under its NPDES permit.

⁵ State Water Board. (2022). [Drinking Water Needs Assessment: Affordability Assessment](#).

⁶ California Regional Water Board Central Coast. (2009). [Order No. R3-2009-0019](#).

To address its wastewater quality issues, the City has partnered with regional entities to implement an infrastructure strategy that involves decommissioning its outdated wastewater treatment plant, transferring wastewater to the City of Hollister's wastewater treatment plant, and constructing a sewer pipeline that will connect the City's collection system to the City of Hollister's plant.

Although many of the MMPs have been resolved over the years, either through various SEPs and compliance projects related to its infrastructure strategy or payments to the Cleanup and Abatement Account, to date, the City remains responsible for over \$250,000 in MMPs and the penalties may continue to accrue. The City argues that many of the issued MMPs could have been avoided given actions they believe the Regional Water Board could have taken, such as updating their NPDES permit (as required by law) or adopting time schedule or cease and desist orders. While it is unclear to staff at this time why such actions were not taken by the Regional Water Board, it's possible that updating the permit may not have changed some permit conditions such as effluent limitations and other enforcement orders, to their discretion, may not have been favorable.

For many years, the City qualified for compliance projects because it was considered to serve a community with a financial hardship, however, following the pandemic in 2020, the City received an influx of new, wealthier residents which increased the median income and eliminated their eligibility. As a result, the City will be required to pay the remaining MMPs to the Cleanup and Abatement Account or put a portion towards an SEP proposed by the Regional Water Board as opposed to their infrastructure strategy.

In an attempt to seek financial relief, this bill would make them eligible again by expanding eligibility for compliance projects to POTWs that serve communities with 3,000 residents or less, regardless of financial hardship.

Comments

- 1) *Purpose of Bill.* According to the author, "Senate Bill 1081 gives state and regional water boards increased flexibility when determining whether a 'publicly owned treatment system serving a small community' faces financial hardship. Current law allows small, financially vulnerable communities to invest mandatory minimum penalties (MMPs) directly toward local compliance projects that often resolve the very violations that led to the penalties.

However, the statute does not expressly recognize extremely small population size or ratepayer base as a qualifying consideration.

SB 1081 adds a qualifying factor, serving a community of 3,000 residents or less, to more accurately target communities who would benefit from penalty assistance. For example, the City of San Juan Bautista faces penalties totaling \$258,000 affecting a small rate base of approximately 800 wastewater customers. With penalty assistance, these funds could be directed towards efforts to decommission the plant and transport wastewater for more advanced treatment and recycling.”

- 2) *Expanding eligibility.* Allowing POTWs serving a community of 3,000 residents or less regardless of financial hardship to qualify for compliance projects would expand the pool of POTWs that can access this financial tool. This could lead to an abuse of this financial tool, as POTWs serving more affluent communities that could afford both capital improvements and assess any mandated penalties would be disincentivized from returning to compliance in a timely manner. Additionally, the amendment implies that POTWs that serve zero residents would also be eligible. Some POTWs that serve zero residents may include water reclamation facilities or other facilities treating industrial wastewater.

Further narrowing eligibility could prevent a few of these unintended consequences. Given that the City of San Juan Bautista more recently lost their eligibility by an influx of new residents that raised the median income, the provision could account for a time lag, as the income of new residents may not immediately reflect the rates at which ratepayers contribute to the financial capacity of the POTW. Furthermore, although the City received an influx of new residents, the number of ratepayers has remained similar, thus the revenue from rates has likely stayed the same. Therefore, increasing the median household income in this case possibly had no effect on the POTW’s financial ability to comply, rather its previous financial status may be more reflective of the POTW’s current reality. ***The author and committee may wish to consider expanding eligibility for compliance projects to POTWs that serve small communities with financial hardships, as defined, within the previous ten years of the assessed mandatory minimum penalty.***

- 3) *Committee amendments. Staff recommends the committee adopt the bolded amendment contained in comment 2 above.*

Related/Prior Legislation

AB 355 (Chu, Chapter 524, Statutes of 2017) defined POTW serving a small community as a POTW serving a population of 20,000 persons or fewer or a rural county, with a financial hardship.

AB 640 (Logue, 2011) would have expanded the eligibility for compliance projects to POTWs serving rural counties.

SB 2165 (Sher, Chapter 807, Statutes of 2000) prescribed circumstances under which MMPs would not apply and outlined the conditions for serious and chronically repeat violations in which an MMP would apply.

SB 709 (Committee on Budget and Fiscal Review, Chapter 93, Statutes of 1999) required mandatory minimum penalties of \$3,000 to be assessed under prescribed circumstances.

SOURCE: City of San Juan Bautista

SUPPORT:

Association of California Water Agencies (ACWA)
League of California Cities

OPPOSITION:

None received

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