



Impacts of United States Supreme Court's decision in *Sackett v. Environmental Protection Agency* (2023) 598 U.S. 651

January 1, 2026

**STATE WATER RESOURCES CONTROL BOARD
www.waterboards.ca.gov**

Table of Contents

Table of Contents	2
1. Executive Summary	3
2. Introduction	4
2.1. Background and Purpose of the Report	4
2.2. Programs Impacted by the <i>Sackett Ruling</i>	6
2.2.1. Water Quality Certification Program	6
2.2.2. NPDES Permit Program	7
2.2.3. Enforcement Program	8
3. Impact on Workload, Permitting, and Enforcement	9
3.1. Water Quality Certification Program	9
3.2. NPDES Permitting	13
3.3. Environmental Complaints	15
3.4. Impacts on the Water Boards' Enforcement Processes	18
4. Legal Challenges	20
5. Updates on Development of General Orders and Policies	21
6. Regulatory Limitations under Current Statutes	22
7. Conclusion	26

1. Executive Summary

This report was prepared for the Legislature, which directed the State Water Resources Control Board (State Water Board) to provide an update on the impacts of the May 25, 2023, United States Supreme Court ruling in *Sackett v. Environmental Protection Agency* (*Sackett Ruling*), on the State Water Board and the nine Regional Water Quality Control Boards (collectively the Water Boards).

The *Sackett Ruling* significantly narrowed the scope of “waters of the United States” protected by the Clean Water Act to only those wetlands with a continuous surface connection to bodies that are “waters of the United States” and only waters that are “relatively permanent.” This decision has had significant impacts on the Water Boards’ regulatory processes, particularly in the areas of water quality certification, NPDES permitting, and enforcement.

Key Impacts:

- Water Quality Certification Program: The *Sackett Ruling* has increased the workload for the Water Boards, as more activities require state-level orders for Waste Discharge Requirements (WDR) instead of federal Clean Water Act section 401 Certifications (401 Certifications).¹ As of September 2025, the Water Boards have seen between a 20% and 48% statewide conversion from 401 Certifications to WDR with higher regionally specific spikes; meeting or exceeding the 25% conservative estimate used in the original BCP. Water boards anticipate this conversion rate could further increase in the future. There is strong incentive for dischargers to wait for federal regulations to fully codify the *Sackett Ruling* before asserting that they are not subject to Clean Water Act jurisdiction. In the face of uncertainty, dischargers may be more inclined to err on the side of applying for 401 certifications. Due to the level of uncertainty, while the Water Boards anticipate further workload increase, they continue to recommend that, at this time, a conservative 25% increase be used for resource planning purposes.
- National Pollutant Discharge Elimination System (NPDES) Permitting: The *Sackett Ruling* has created uncertainties in the NPDES permitting program, particularly for stormwater discharges. While the effects on the NPDES program have not fully manifested, the Water Boards anticipate an increase in the number of discharges that fall outside the scope of federal NPDES permits due to the narrowing in scope of Waters of the United States (Waters of the U.S.),

¹ Section 401 Certifications are also waste discharge requirements per Water Quality Order No. 2003-0017-DWQ. Similarly, NPDES permits issued by the Water Boards are also waste discharge requirements. (Wat. Code, § 13374.) For the purposes of this report, the term WDR refers to where the WDR is not also serving as a 401 Certification or NPDES permit. The report sometimes refers to non-NPDES WDR for emphasis and clarity.

necessitating state-level WDR to provide protection for waters of the state to regulate activities alongside the NPDES stormwater permits. The expanded use of state-level WDR will require increased resources for implementation and enforcement at the Regional Water Quality Control Boards (Regional Water Boards).

- Enforcement: The *Sackett Ruling* has complicated the Water Boards' enforcement processes and hindered its ability to use enforcement to adequately protect waters of the state. The *Sackett Ruling* has increased the workload associated with gathering and presenting evidence regarding whether waters are under federal jurisdiction. The number of complex cases in which the Water Boards are limited to enforcing non-NPDES WDR instead of more easily enforced NPDES Permits has increased. Given the recentness of the *Sackett Ruling* relative to the pace of enforcement cases, the Water Boards anticipate the numbers of cases with *Sackett Ruling* related issues to continue to trend upwards as the regulated community continues to adapt to the new regulatory terrain.
- Legal Uncertainty: How the *Sackett Ruling* should be interpreted is subject to ongoing litigation. Upcoming changes in federal regulations are also expected to prompt litigation. This creates regulatory uncertainty as to how specific sites and activities should be regulated and what legal requirements are applicable.

The Water Boards are actively working to address these challenges to the extent that they can be addressed administratively, through the development of new permits under state law, increased coordination with federal agencies, and ongoing evaluation of regulatory tools and methods. The regulatory data and analysis presented in this report confirm the resources authorized in the 2024 Budget Act were both necessary and well-targeted. However, the scale and complexity of the impacts, particularly at the Regional Water Board level, underscore the need for additional resources to ensure timely permitting, effective enforcement, and consistent protection of waters of the state.

2. Introduction

2.1. Background and Purpose of the Report

The Water Boards administer and enforce various Clean Water Act programs in California, including the Clean Water Act Section 401 water quality certification program, Section 402 National Pollutant Discharge Elimination System (NPDES) permitting program, and Section 303 water quality standards program. The Clean Water Act applies only to “waters of the United States,” a term that has been defined in several different ways by regulations adopted by United States Environmental Protection

Agency (U.S. EPA) and the United States Army Corps of Engineers (Army Corps). Because the scope of the Clean Water Act is dependent on this definition, the definition has been plagued by litigation and regulatory upheaval for decades. These regulations have been reviewed by the U.S. Supreme Court several times, including in a notoriously fractured decision in *Rapanos v. U.S.* (2006) 547 U.S. 715 with four justices lining up on opposite sides and one concurring opinion. U.S. EPA and the Army Corps, under several different administrations, have attempted to revise the regulations after *Rapanos*, but each time were stymied by legal challenges. When the U.S. Supreme Court issued the *Sackett Ruling* on May 25, 2023, the decision purported to add clarity to the jurisdictional mire. Instead, although the *Sackett Ruling* reduced the scope of the Clean Water Act, its exact ramifications will take time to fully unfurl.

The *Sackett Ruling* found that, for wetlands, the Clean Water Act extends to only those “wetlands with a continuous surface connection to bodies that are ‘waters of the United States’ in their own right,” so that they are “indistinguishable” from those waters. For non-wetland surface waters, the Court’s opinion found that the Clean Water Act covers “only those relatively permanent, standing or continuously flowing bodies of water ‘forming geographic[al] features’ that are described in ordinary parlance as ‘streams, oceans, rivers, and lakes.’” The Clean Water Act had previously been interpreted in *Rapanos* to also cover waters that had a “significant nexus” to other jurisdictional waters irrespective of whether the water was also “relatively permanent.” Although the *Sackett Ruling* specifically addressed wetlands, the elimination of the “significant nexus” test in favor of a test that focuses on relative permanence, also has a very significant effect on the Clean Water Act’s coverage of non-wetland waters. The “relatively permanent” standard removes non-perennial waters common in the arid west and dominant in large parts of Southern California from federal jurisdiction. By setting a heightened standard for which wetlands are jurisdictional and disavowing the continued application of the “significant nexus” test, the *Sackett Ruling* reduced the scope of the Clean Water Act, leaving many waters unprotected at the federal level and entirely reliant on state protections.

The 2024 Budget allocated ongoing funding and hiring authority for 26 additional staff across the Water Boards to address some of the new workload that was identified as resulting from the *Sackett Ruling*. The 2024 Budget Act required a report on the impacts of the *Sackett Ruling*. Specifically, Provision 3 of Item 3940-001-0193 in Chapter 35, Statutes of 2024 (SB 108) requires:

On or before January 1, 2026, the State Water Resources Control Board shall provide a report to the relevant budget subcommittees of the Legislature and the Legislative Analyst’s Office on the impact of the United States Supreme Court’s decision in Sackett v. Environmental Protection Agency (2023) 598 U.S. 651. The report shall include, but is not limited to, the following:

- (a) *Discussion of available data and impacts on the workload, permitting, and enforcement processes of the State Water Resources Control Board and the California regional water quality control boards (collectively, the water boards).*
- (b) *Discussion of legal challenges to state regulatory authority, including the number and nature of the cases and their decisions, as well as how these cases complicate or facilitate the water boards' ability to regulate state waters, including wetlands, and discussion of numbers of complaints received including, but not limited to, complaints due to projects proceedings with proper authorization.*
- (c) *Updates on the development of general orders and other policies.*
- (d) *Description of any regulatory limitations the water boards may be experiencing under current statute.*

2.2. Programs Impacted by the Sackett Ruling

This report focuses primarily on impacts to the water quality certification program, NPDES program, and enforcement, which are the programs that received resources in the 2024 Budget Act in response to the estimated impacts from the *Sackett Ruling*.

2.2.1. Water Quality Certification Program

The Water Quality Certification program regulates dredge or fill activities in wetlands and waterways in the state. Examples of such projects include navigational dredging, flood control channelization, levee construction, channel clearing, or fill of wetlands for development, bridge piers, or docks.

When located in waters of the US, dredge or fill projects require a Clean Water Act section 404 permit from the Army Corps (404 Permit). Prior to issuing a 404 Permit, the Army Corps must, pursuant to section 401 of the Clean Water Act, obtain certification from the state that the project approved by the Army Corps will also meet state water quality requirements. The Army Corps is required to include in the federal permit any conditions established by the state in its water quality certification.

When a dredge or fill project is located in a state water, not under the jurisdiction of the Army Corps, the project is regulated under state authority through the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) in the form of WDR or waivers of WDR.

In either case, California may enforce the conditions of the water quality certification using its Porter-Cologne Act authority. The disparities in relying on the Porter-Cologne Act authority for enforcement are discussed in section 3.4 of this report.

2.2.2. NPDES Permit Program

The Water Boards are authorized by U.S. EPA to administer NPDES permits. The effect of *Sackett* on the NPDES permitting program has been less immediate than the effects on the dredge or fill program and the scope of the effects are less certain. As explained in Section 4 of this report regarding legal challenges, the regulations purporting to implement the *Sackett Ruling* are currently subject to litigation. U.S. EPA released guidance purporting to rescind prior guidance interpreting those regulations, and U.S. EPA and the Army Corps have announced that they expect to finalize new regulations defining Waters of the U.S. in 2026. It is not yet clear whether and how U.S. EPA will attempt to provide further clarification on what waters are “relatively permanent.” Assuming that U.S. EPA continues to apply the portion of the plurality opinion in *Rapanos* that it did not overrule with *Sackett*, “relatively permanent” waters does “not necessarily exclude streams, rivers, or lakes that might dry up in extraordinary circumstances, such as drought,” or “seasonal rivers, which contain continuous flow during some months of the year but no flow during dry months.” How this standard will be applied in California and other portions of the arid west is still unfolding.

In addition, an NPDES permit may still be required for some point source discharges of pollutants to tributaries that are not Waters of the U.S. The plurality opinion in *Rapanos* explained that courts have consistently found that the Clean Water Act applies to the discharge of pollutants that are not directly into covered waters but pass through conveyances in between.

Furthermore, the *Sackett Ruling* did not address the application of *County of Maui, Hawaii v. Hawaii Wildlife Fund* (2020) 140 S.Ct. 1462, which held that an NPDES permit is still required for a point source discharge of pollutants even if the discharge is not directly into Waters of the U.S., as long as the discharge is the “functional equivalent” of a direct discharge from a point source into Waters of the U.S. It is important to note that the issue of NPDES permitting for discharges of pollutants to tributaries of jurisdictional waters that are not relatively permanent is expected to be an area of high uncertainty for several years, as the federal agencies issue specific jurisdictional determinations and the federal courts resolve specific controversies. Because an NPDES permit may be required even where a discharge is not directly to a water that is within Clean Water Act jurisdiction, it is even more difficult to estimate how many permittees were affected by the *Sackett Ruling*.

For NPDES permits regulating wastewater, discharges are unlikely to be to wetlands and are more likely to be to relatively permanent waters. These NPDES permits are therefore less likely to be affected by the *Sackett Ruling*. In contrast, the Water Boards projected more *Sackett*-effects on NPDES permits regulating industrial and construction stormwater. Both of these permits allow a discharger to demonstrate that NPDES permit

coverage is not necessary because the site is located in a basin that is hydrologically disconnected from waters of the U.S. The *Sackett Ruling* made it more likely that more of these hydrologically disconnected basins will be identified. Dischargers in these areas may incorrectly assume that if they are not required to obtain an NPDES permit, they are not required to go to the Water Boards for any authorization. Construction stormwater dischargers are also transient, making it more difficult to identify non-filers.

Assuming that there will be some areas that are newly identified as completely hydrologically disconnected from any Waters of the U.S., to ensure the same level of protection from stormwater discharges that existed pre-*Sackett Ruling*, the State Water Board has begun the process of drafting general WDR under state authorities for stormwater discharges associated with certain industrial sites and construction activities to non-federal waters of the state, which is described in Section 3.2.

2.2.3. Enforcement Program

The Water Boards have primary responsibility for the coordination and control of water quality in California. In the Porter-Cologne Act, the Legislature declared that the “state must be prepared to exercise its full power and jurisdiction to protect the quality of the waters in the state from degradation....” (Wat. Code, § 13000). The Porter-Cologne Act grants the Water Boards the authority to implement and enforce water quality laws, regulations, policies, and plans to protect the groundwater and surface waters of the state. Timely and consistent enforcement of these laws is critical to the success of the water quality program and to ensure that the people of the state have clean water.

The Office of Enforcement provides legal and technical support to the Water Boards for water quality enforcement matters. The Office of Enforcement works to ensure that violations of orders and permits result in firm, fair, and consistent enforcement through direct actions, the development of policies and guidance, and the identification of metrics for decision-making on enforcement issues. Office of Enforcement attorneys assist in the development of enforcement strategies, triaging potential enforcement cases, and bringing formal enforcement actions (such as administrative liability actions) before the Water Boards for consideration. In addition, the Office of Enforcement attorneys often function as liaisons to outside prosecutors, whether it is to refer cases to the Attorney General’s Office for prosecution or to coordinate with actions being brought by other local and state agencies.

The state’s water quality requirements are not solely the purview of the Water Boards and their staff. Other agencies, including local government and the California Department of Fish and Wildlife have the authority to enforce certain water quality provisions in state law. State law also allows members of the public to bring enforcement matters to the attention of the Water Boards and authorizes aggrieved persons to petition the State Water Board to review most actions or failures to act from

the Regional Water Quality Control Boards (Regional Water Boards). Finally, the federal Clean Water Act authorizes citizens to bring suit against dischargers for certain types of Clean Water Act violations.

3. Impact on Workload, Permitting, and Enforcement

While the *Sackett Ruling* did not reduce the Water Boards' authority to regulate waters of the state, many of California's existing programs are structured and implemented based on how the scope of the Clean Water Act had been implemented for the last 50 years. Prior to federal regulations attempting to contract jurisdiction in 2020 and the *Sackett Ruling* in 2023, most projects were permitted under the Water Boards' Clean Water Act authorities. With the dramatic reinterpretation of the Clean Water Act set forth in the *Sackett Ruling*, the Water Boards need to rely more heavily on state regulation of discharges set forth in WDR, which has had the workload impacts described in this section and are subject to the challenges set forth in Section 6.

3.1. Water Quality Certification Program

Two critical factors that affect workload within the Water Quality Certification Program are whether a project is issued an individual order or a general order, and whether orders are issued as 401 Certifications, or WDR under the California Water Code. Table 1 illustrates the relative description of workload impacts. Where possible, the Water Boards issue general orders for a class of projects, as the overall workload to develop and administer a general order is less than is required to develop individual permits for the same class of projects. The Water Boards also issue 401 Certifications where appropriate as that is a more efficient process. For example, the Water Boards' regulations for Clean Water Act section 401 Certifications require that the Water Boards provide a 21-day notice of an application (Cal. Code of Regs., tit. 23, § 3858.). In contrast, California Water Code section 13167.5 requires a 30-day public review of the draft WDR, not of the application, prior to adoption of any WDR. In addition, while the Regional Water Boards' Executive Officers can issue 401 certifications, current law requires that WDR for the same types of activities must be adopted by the full Regional Water Board at a noticed meeting (see Section 6 for additional detail on regulatory restrictions).

Table 1: Key Factors affecting Water Board workload

	Individual Order	General Order
401 Certification under Federal Law	Intermediate Workload	Lowest Workload
WDR Under State Law	Highest Workload	Intermediate Workload

The *Sackett Ruling* impacts both workload factors. First, in reducing the scope of federal waters, the Water Boards must issue WDR for more activities that are not eligible for the streamlined process available for 401 Certifications. Second, prior to the *Sackett Ruling*, most existing general orders were adopted as 401 certifications. They did not follow the specific procedural requirements required of non-401 Certification WDR and did not explicitly mention coverage for activities in non-federal waters of the state. In recent years, as projects that impact non-federal waters of the state have become increasingly common, the Water Boards have issued general WDR to regulate alongside previously issued 401 Certifications to provide the full spectrum of regulatory protection for waters no longer covered under the *Sackett Ruling*. In addition, the Water Boards have begun to adopt general orders relying on both Clean Water Act and Porter-Cologne Act authority to help address the gaps left by the *Sackett Ruling*.

The shift from developing 401 Certifications to developing individual and general WDR results in a significantly higher workload and resource cost to the Water Boards. The number of applications for dredge or fill permits, which includes both 401 Certifications and WDR for the same activities in non-federal waters of the state, can vary significantly from year to year.² Since 2017, applications have ranged from a low of 738 annual applications to a high of 1353 applications with an annual average of about 1,260 applications per year³. In the fiscal year 2024-25 Budget Change Proposal the Water Boards estimated that at least 25 percent of projects would require WDR instead of a 401 Certification. Of those, roughly half were presumed to qualify for coverage under existing general WDR. The remaining half would require individual WDR, representing a new and significant workload.

² This variation is particularly pronounced during such events as the Great Recession and the onset of the COVID-19 pandemic. The changing regulations defining Waters of the U.S. in 2015, 2020, and 2023, and the accompanying litigation regarding those changes, also likely affected the number of applications. The current number of applications may also be affected by economic uncertainty. These external factors make it difficult to definitively identify specific causes for specific changes.

³ Data taken from the California Integrated Water Quality System (CIWQS), a computer system used by the Water Boards to track information about places of environmental interest, manage permits and other orders, track inspections, and manage violations and enforcement activities. Additional information about CIWQS can be found at: <https://www.waterboards.ca.gov/ciwqs/>.

Subsequent to the approval of resources in the 2024 Budget, the Water Boards have analyzed internal data on orders issued since the *Sackett Ruling*. Preliminary findings show an increase in applications for WDR that is generally consistent with estimates included in the 2024-25 Budget Change Proposal. Available data was analyzed in two ways to identify impacts to workload.

The first analysis looked at the historical trend of the proportion of total orders issued as WDR since 2017, illustrating levels prior to and following the *Sackett Ruling* (Figure 1). The data shows a transient spike in the proportion of applications for WDR in fiscal year 2020-2021, which predates the *Sackett Ruling*. This trend corresponds to adoption and short-term applicability of the federal 2020 Navigable Waters Protection Rule, which sharply reduced the scope of the Clean Water Act similar to the *Sackett Ruling*.⁴ This time period also corresponds to other contributing factors including the decrease in projects and overall permit applications in response to COVID-19 shutdowns as well as changes in the federal regulations that govern 401 Certifications.⁵ While the transient spike may be influenced by additional confounding factors, the upward trend in response to the narrowing of federal jurisdiction in 2020 and the similar trend observed following the *Sackett Ruling* confirms the assumption that more projects would require WDR and, therefore, increase the workload to permit those projects. In 2023, shortly after issuance of the *Sackett Ruling*, applications needing to be processed as WDR increased, reaching 20% of all applications in fiscal year 2024-25.

⁴ The 2020 Navigable Waters Protection Rule was vacated by court order. U.S. EPA then promulgated replacement regulations in 2023.

⁵ The 2020 regulations governing section 401 Certification were vacated by court order, briefly reinstated, and then replaced by regulations in 2023. The 2023 regulations explicitly described the scope of certification in a way that is consistent with how it has historically been applied, stating that a water quality certification may cover impacts from the activity, and it is not limited to just the discharge to the water of the United States. (40 C.F.R. § 121.3.) These regulations helped blunt the negative effects of *Sackett Ruling* by allowing a certification to cover impacts to non-federal waters so long as there is at least one discharge to a water of the U.S. U.S. EPA has announced its intention to revise the certifications regulations.

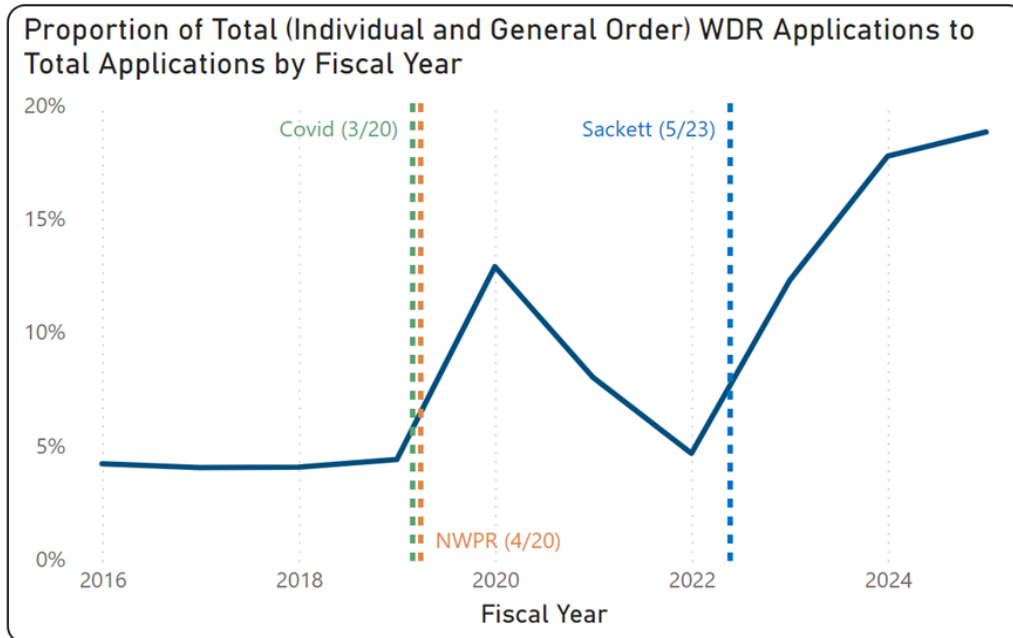


Figure 1: Proportion of all orders (general and individual) that were processed as WDR from 2017 to 2025.

In addition to historical trends, the Water Boards reviewed applications for individual permits issued by the Water Boards from May 2023 (when the *Sackett Ruling* was issued) to July 2025 (Figure 2). This provides a more direct analysis of the impacts of the *Sackett Ruling* on issuance of individual orders, where the impact to Water Board resources is highest. Figure 2 shows a bar chart of the total number of individual permits issued by Regional Board, with the red bar indicating the number individual permits that could have been processed as 401 Certifications prior to the *Sackett Ruling*. Statewide, 37 of the 76 applications (48%) were processed as WDR but would have been processed as 401 Certifications prior to the *Sackett Ruling*.

From this second analysis, the impact of the *Sackett Ruling* appears to affect Southern California regions more than Northern California regions. At the San Francisco Bay Regional Water Board (Region 2), 5 of the 6 permits were processed as individual WDR and would have been processed that way regardless of the *Sackett Ruling*. In contrast, in the Santa Ana Regional Water Board (Region 8), nearly all the individual WDR could have been processed as 401 Certifications prior to the *Sackett Ruling*.

The net result of both analyses is that conversion of 401 Certifications to higher workload State-issued WDR in the period immediately after the *Sackett Ruling* ranged from 20 to 48% with much higher regional spikes. The Water Boards expect the trend towards increasing workload will continue. Dischargers may be waiting for federal regulations to fully codify the *Sackett Ruling* before asserting that they are not subject to

Clean Water Act jurisdiction. Also, in the face of uncertainty, dischargers may be more inclined to err on the side of obtaining Clean Water Act permits rather than state-issued WDR. Despite the likely increasing workload trend, given the uncertainty, the Water Boards continue to recommend that a conservative 25% increase in workload be used for resource planning purposes.

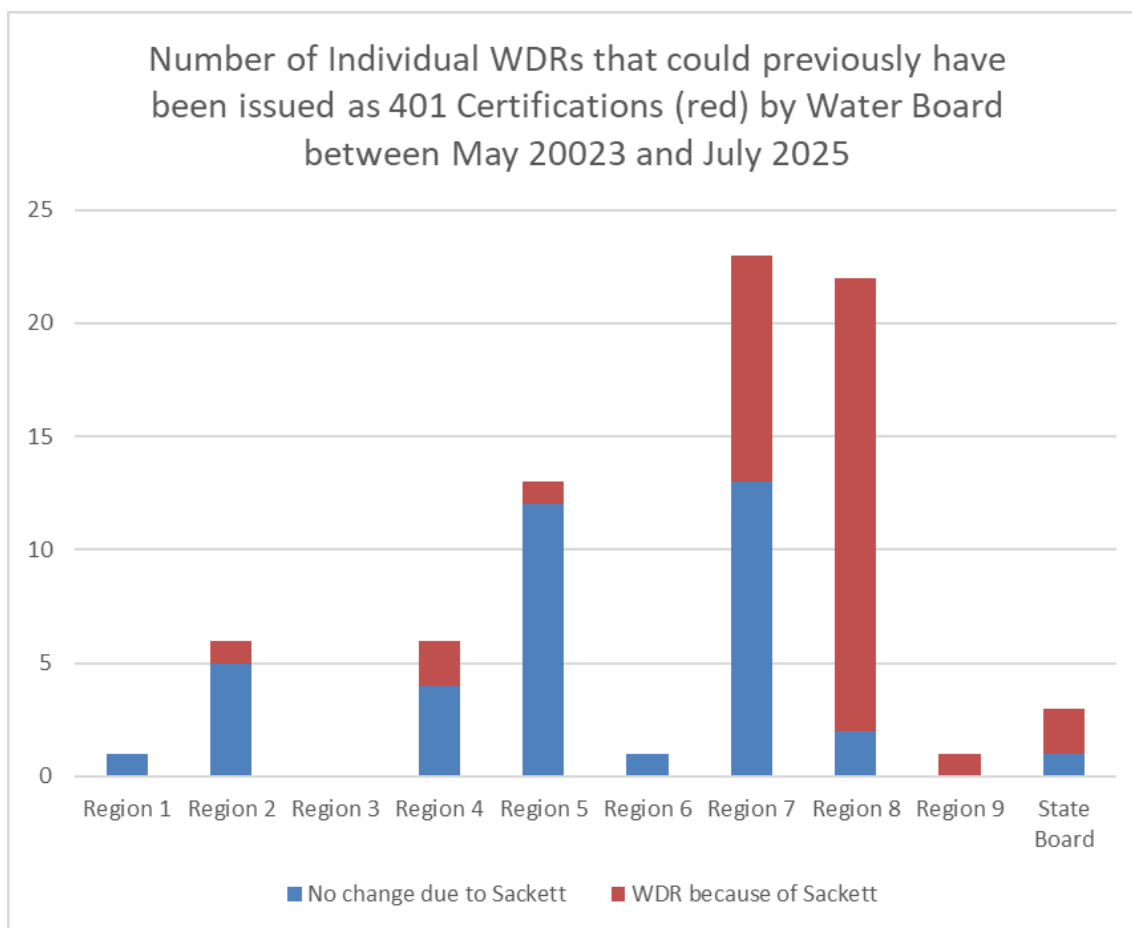


Figure 2: Impact on Individual WDR issuance following the Sackett Ruling.

3.2. NPDES Permitting

As discussed in Section 2.2.2, with the contraction of federal jurisdiction from the *Sackett Ruling*, the Water Boards expect an increase in the number of discharges that fall outside the scope of the industrial and construction general stormwater NPDES permits. To ensure the same level of protection from stormwater discharges that existed pre-*Sackett Ruling*, the State Water Board has begun the process of drafting general

WDR under state authorities for stormwater discharges associated with certain industrial sites and construction activities to non-federal waters of the state.⁶

The Water Boards are in the early stages of developing WDR to regulate point source discharges of stormwater to non-federal waters of the state. Because the issuance of WDR is not covered by the California Environmental Quality Act (CEQA) exemption set forth in Water Code section 13389 (see Section 6 for additional detail), the State Water Board will need to comply with CEQA. Staff is also assessing whether and how to incorporate requirements rooted in federal regulations, including performance and monitoring standards, into WDR. Because some Regional Water Boards are more likely to have a lower proportion of relatively permanent waters than others, development of the WDR will also necessitate close collaboration with the Regional Water Boards.

As may be partially attributable to the uncertainties described in Section 2.2.2, the Water Boards have not yet observed significant changes to stormwater NPDES permit enrollment. The number of enrollees in the general industrial and construction stormwater NPDES permits have been increasing, as have the number of Notices of Terminations. But these increases are consistent with years prior to the *Sackett Ruling*. Although the Water Boards have yet to see systematic shifts in enrollment, there have been some examples of individual requests to terminate NPDES permit coverage that specifically reference the *Sackett Ruling* as justification for why the enrollee believes a Clean Water Act permit is no longer required. The Water Boards anticipate that as certainty increases regarding how the *Sackett Ruling* will be interpreted and applied in the NPDES context, there will be more instances where NPDES permittees request permit termination.

Going forward, inspections and enforcement will be critical for evaluating the effect of the *Sackett Ruling* on the industrial and construction storm water programs and mitigating those effects. For the construction stormwater general NPDES permit, the *Sackett Ruling* impacts overlap with the regulatory transition from the 2009 construction stormwater general NPDES permit to the 2022 construction stormwater general NPDES permit. The Water Boards have been working on identifying areas where there may be non-filers, including both permittees with coverage under the prior permit who did not obtain coverage under the new permit and dischargers who never obtained permit coverage.

⁶ The Water Boards will need to issue these general WDR in addition to the NPDES permits, rather than in lieu of, because the Water Boards cannot waive the requirement that discharges to Waters of the U.S. are authorized by an NPDES permit.

3.3. Environmental Complaints

Complaints are submitted to the Water Boards from various sources, including the public, other local and state agencies, and environmental organizations through phone calls, emails, and by submitting information online through a [centralized environmental complaint system](#) (complaint system) maintained by the California Environmental Protection Agency (CalEPA). The following section of this report focuses on analyzing complaints received via CalEPA's complaint system, as these complaints are considered representative of the broader spectrum of complaints received and can be analyzed to identify trends. Water Board enforcement coordinators estimate that between 40-50% of complaints are received through CalEPA's complaint system. Complaints originating outside the complaint system are not systematically tracked and therefore are more challenging to characterize.

The primary purpose of CalEPA's complaint system is to ensure that environmental concerns are promptly routed to the appropriate state or local agency. Within CalEPA, complaints are routed to the board, department or office (BDO) with jurisdiction over the subject matter of the complaint. The centralized system functions as a hub to minimize confusion for the public and ensure that the complaint is received by the appropriate agency or agencies. The respective agencies then follow up according to their own investigation and enforcement procedures.

The State Water Board Office of Enforcement reviewed data from complaints submitted through the CalEPA complaint system between 2015 and 2025 to identify potential *Sackett Ruling* impacts. The Office of Enforcement's method for examining for impacts of the *Sackett Ruling* on complaints was to:

- a) Determine what common complaint allegations were likely to be impacted by the *Sackett Ruling*, and
- b) examine complaint data from before and after the *Sackett Ruling*, reviewing whether and how those complaints have changed over time.

To that end, Office of Enforcement staff developed a list of keywords specifically tailored to topics with the potential to be impacted by the *Sackett*-related matters. Each keyword was assigned a weight based on the strength of its association with a topic likely to be impacted by the *Sackett Ruling*.⁷ The complaint dataset was then analyzed using three scoring components —keywords, responding BDO, and complaint type — to generate a final score for each complaint. This score is intended to reflect the likelihood that the

⁷For example, highly specific terms like "*Sackett Ruling*", "wetland", "dredge", "401 Certification", and "stormwater" were given the highest weight between 10 and 20, while moderately relevant terms like "fill" and "dumping" were weighted between 5 and 10. More general terms, such as permit or water, received lower weights of 5 or less. This system of ranking allowed the process to capture both the presence and the significance of words appearing in the complaint descriptions.

complaint relates to Clean Water Act jurisdiction and a topic impacted by the *Sackett Ruling*⁸ (Clean Water Act-Related Complaint).

Applying this methodology to the 24,838 unique complaints submitted over the ten-year period, 10,655 complaints were directed to the Water Boards as a responding agency and 991 of those complaints were identified as Clean Water Act-Related Complaints. The data shows that the annual number of Clean Water Act-Related Complaints were relatively flat from 2015-2019. During the pandemic years (fiscal years 2020-2021 and 2021-2022) there was an increase in both overall number of complaints and Clean Water Act-Related Complaints. While Clean Water Act-Related Complaints receded in 2022, they never dropped lower than pre-pandemic levels. (Figure 3) Looking more specifically at Clean Water Act-Related Complaints with a high likelihood of being impacted by the *Sackett Ruling* there is a steady increase starting in 2023 and continuing through 2024-2025 (Figure 4).

⁸ An R script was used to process the complaint dataset and apply these keyword weights, along with additional scoring based on the Complaint Type (specified by the Complainants via the complaint portal) and the Responding BDO (as assigned by BDO complaint liaisons). Finally, the three scoring components—keywords, responding BDO, and complaint type—were combined to generate a final score for each complaint. This score is intended to reflect the likelihood that the complaint relates to a topic impacted by the *Sackett Ruling*. It is understood that this methodology cannot and does not identify every complaint that may have been affected by the *Sackett Ruling*. It is limited both by the scope of the keywords and the absence of geographic and hydrologic information. However, it is useful for identifying trends in the broader universe of complaints that may be impacted by the *Sackett Ruling*, because it can identify changes in a relevant subset of such complaints in a consistent manner over a very large dataset, similar to electoral polling. For the purposes of this analysis, complaints containing at least one keyword and a score greater than 20 were considered a Clean Water Act-Related Complaint.

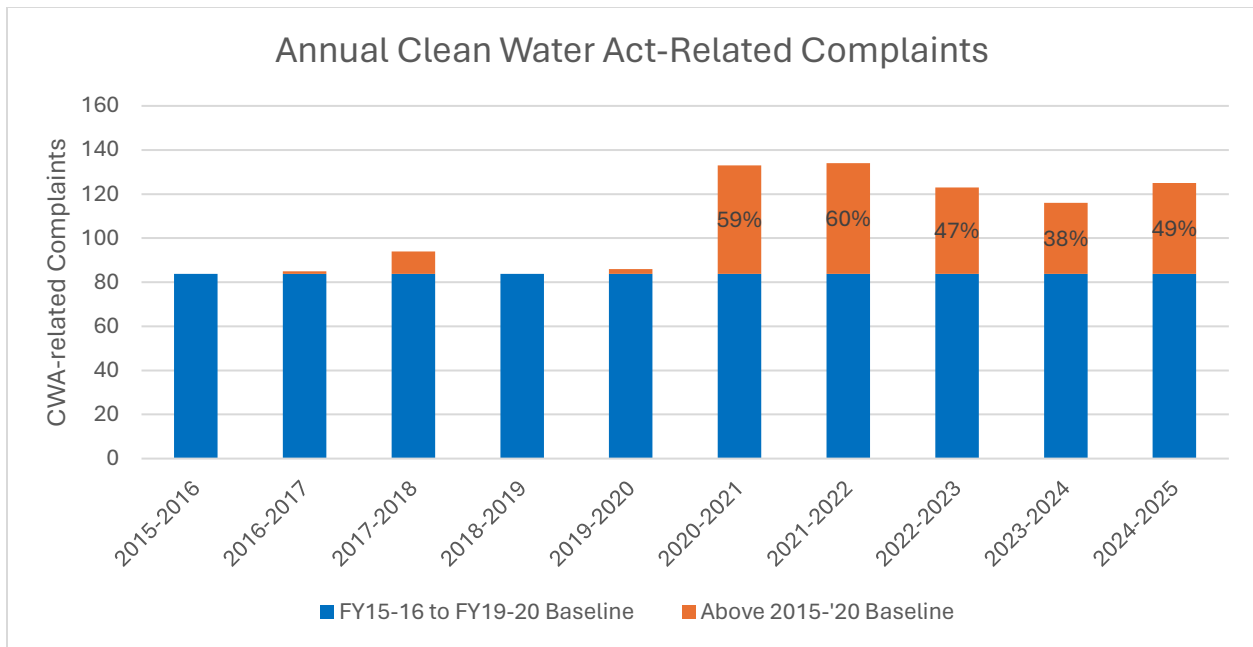


Figure 3: The number of CWA-Related Complaints, defined for the purposes of this analysis as complaints with a combined score based on three scoring elements—keywords, responding BDO, and complaint type—increased by approximately 50% after Fiscal Year 2020-2021.

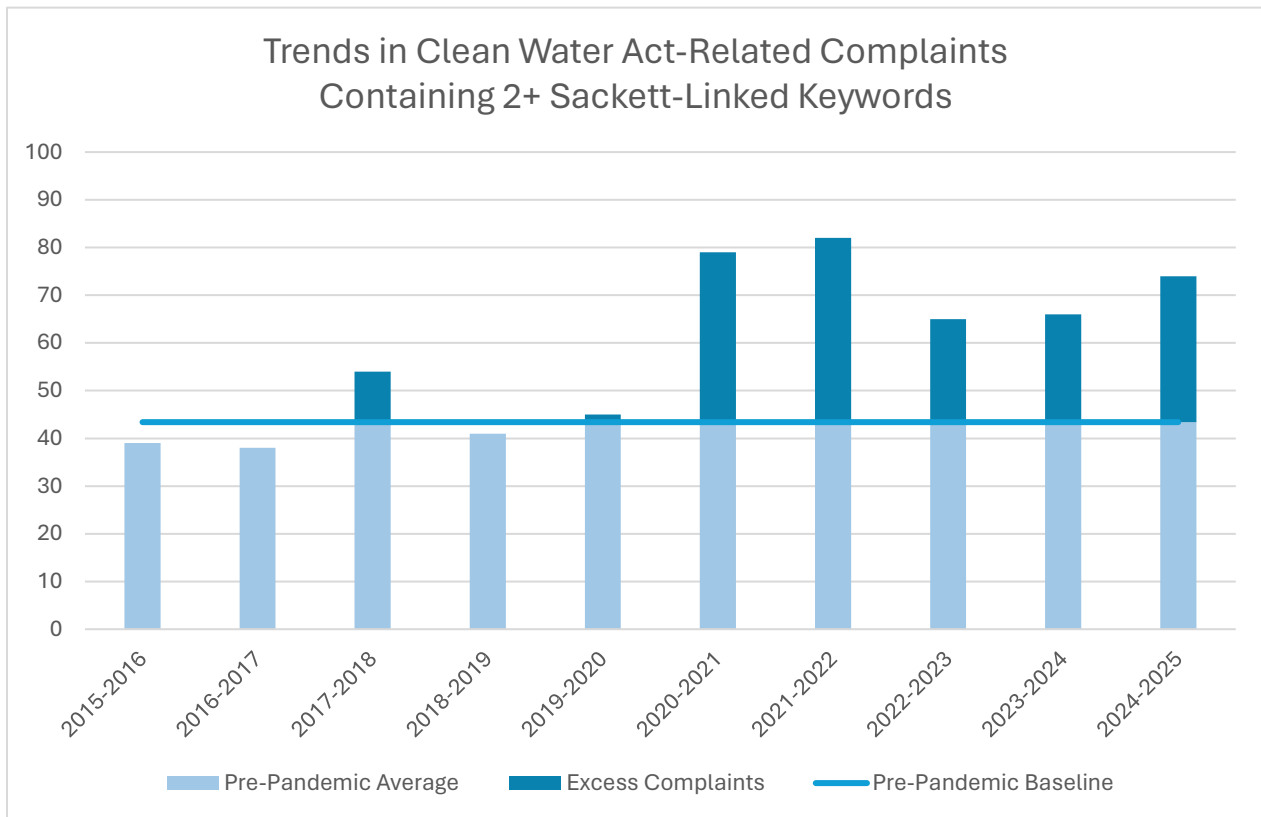


Figure 4: The data for the highest scoring complaints (those with scores of 40 or higher and containing at least 2 keywords) indicate that the Sackett Ruling was a driver for increased complaints in later years.

3.4. Impacts on the Water Boards' Enforcement Processes

The *Sackett Ruling* has impacted the Water Boards' enforcement processes in several ways. Due to disparities in the Porter-Cologne Act, violations can be difficult to enforce when federal waters are not implicated. As a result of the *Sackett Ruling* and the existing statutory disparities, the number of waterbodies subject to lowered levels of protection have grown significantly. In addition, the workload associated with collecting and presenting evidence to support a claim that a waterbody is federally jurisdictional has increased significantly. Due to these new legal risks and resource constraints, the Water Boards have shifted enforcement strategies.

The Porter-Cologne Act currently provides different administrative and judicial procedures and enforcement authorities for protecting waters of the state that qualify as Waters of the U.S., as compared to waters that do not qualify as Waters of the U.S. These differences are often not driven by differences in threat to water quality, and the lower level of protection afforded to waters that do not qualify as Waters of the U.S. can significantly hamper the Water Boards' ability to bring meaningful enforcement. The Porter-Cologne Act currently provides authority to impose administrative civil liabilities for violations of non-NPDES WDR only if the violation results in a discharge to waters, or if the violation involves the discharger's failure to submit a technical or monitoring report. These restrictions do not apply to violations of NPDES WDR for discharges to Waters of the U.S.; in that case the Water Boards or a court can assess penalties for permit violations even if there is no actual discharge, thus working to prevent harm to water quality in the first instance. This leaves a significant gap in enforcement for many of the critical requirements of non-NPDES WDR, particularly those relating to violations of required management practices that are designed to prevent a discharge of waste to waters that do not qualify as Waters of the U.S. Being unable to enforce protective permit terms until they result in an actual discharge means that the impacts from those discharges cannot be prevented by proactive enforcement of permit terms. Furthermore, the Water Boards need to have sufficient enforcement resources and field presence to document the cause of unauthorized discharges at the time of the events before any penalties can be assessed for prior non-compliance with permit terms.

While the Water Boards have issued several individual and general non-NPDES WDR that govern discharges of waste to waters that no longer qualify as Waters of the U.S., the Water Boards are unable to enforce violations of these non-NPDES WDR to the same extent that they can enforce violations of NPDES WDR given the statutory disparities discussed above.

Further, the Porter-Cologne Act provides authority to impose administrative civil liabilities for discharge violations to waters of the state only when a Waste Discharge Requirement, waiver condition, certification or other order or prohibition from the Water

Boards prohibits the discharge or after giving notification to the discharger. In contrast, the Porter-Cologne Act provides authority to impose such liabilities for discharge violations to Waters of the U.S. in the absence of WDR, waiver conditions, certifications, or other Water Board orders or prohibitions. As a result, in certain instances, the Water Boards are unable to directly seek administrative civil liabilities against a person who is illicitly discharging to waters of the state. Paradoxically, these instances include those discharges that the Water Boards would never authorize, such as illegal dumping. The Office of Enforcement is evaluating water quality control plans to analyze the need for prohibitions to promote the enforceability of unpermitted discharges to waters of the state in the wake of the *Sackett Ruling* (See Section 6 for more information on challenges in implementing these prohibitions).

In addition to the Water Boards' inability to take enforcement action in many instances in which a violation of non-NPDES WDR has occurred, the maximum penalties for violations of water quality laws affecting waters that do not qualify as Waters of the U.S. are considerably lower than the maximum penalties for water quality violations affecting Waters of the U.S. The disparity in penalties has been shown to impact the effectiveness in deterring those violations. Specifically, civil liabilities for violations affecting waters that do not qualify as Waters of the U.S. are governed by California Water Code section 13350, which sets the maximum civil liabilities imposed by a court at \$15,000 per day of violation or \$20 per gallon, and sets the maximum penalties imposed by the Water Boards at \$5,000 per day of violation or \$10 per gallon. In contrast, civil liabilities for violations affecting Waters of the U.S. are governed by California Water Code section 13385, which allows for both per day and per gallon penalties and sets the maximum civil liabilities imposed by a court at \$25,000 per day of violation plus \$25 per gallon, and sets the maximum administrative penalties imposed by the Water Boards at \$10,000 per day of violation plus \$10 per gallon.

Limits on penalty amounts can also be insufficient to compensate the people of the state for the environmental harm resulting from the violation. Enforcement is a key element of an effective regulatory program, and the Water Boards' ability to enforce California's water quality laws and regulations is essential for protecting California's environment, public health, and increasingly scarce water supplies. As a result of the *Sackett Ruling*, the differential treatment of Waters of the U.S. and waters of the state under the current statutory scheme has become more problematic.

The *Sackett Ruling* has increased opportunities for the regulated public to raise Waters of the U.S. challenges in cases involving waterbodies for which there is ambiguity in the jurisdictional status. The decision has also encouraged the regulated public to raise such challenges even in cases involving waterbodies for which the jurisdictional status is widely recognized and for which the challenge would likely not have been raised under prior judicial precedent. Even where there was an enforcement decision prior to

the *Sackett Ruling*, in several instances, the *Sackett Ruling* was cited as the basis for dischargers to argue that adverse decisions should be revisited (e.g., *United States v. Sweeney*, 2024 WL 4527260; *Inland Waterkeeper v. Corona Clay Company*, 2024 WL 4492293, *San Francisco Baykeeper v. City of Sunnyvale*, 2023 WL 8587610.). The uptick in defendants raising the *Sackett Ruling* as a potential defense has increased the workload associated and resource allocation necessary to gather, assess, and present evidence to support a Waters of the U.S. allegation, which can be a highly technical process.

In response to the *Sackett Ruling*, the Office of Enforcement has had to shift its enforcement approaches in a number of cases. Particular program areas have been more impacted than others. For example, thirty-five percent of the Office of Enforcement's thirteen section 401 cases active when the *Sackett Ruling* was issued or referred since the *Sackett Ruling*, have had *Sackett Ruling* issues—meaning that either the enforcement approach was impacted, or additional resources were necessitated, due to the differences in enforcement tools described above. Of the eighteen sanitary sewer system overflow cases, approximately thirty-three percent of the cases have had such *Sackett Ruling* issues, and seven percent in the thirty-seven cases from the storm water program. It can take years for enforcement cases to develop because the Water Boards repeatedly offer compliance assistance in attempts to bring an entity back into compliance prior to elevating a case to enforcement. Given the recentness of the *Sackett Ruling* relative to the pace of enforcement cases, the Water Boards anticipate these numbers to continue to trend upwards as the regulated community continues to adapt to the new regulatory terrain. Additional regulatory limitations under the Porter-Cologne Act for discharges to waters that are no longer Waters of the U.S. that effect enforcement are discussed in Section 6.

4. Legal Challenges

How the *Sackett Ruling* should be interpreted is subject to ongoing litigation. As the contours of the *Sackett Ruling* continue to be defined, the full effects of the decision will come into sharper focus. As an example of the ongoing uncertainty in the scope of the *Sackett Ruling*, U.S. EPA and the Army Corps promulgated a definition of Waters of the U.S. to conform with the *Sackett Ruling* that went into effect on September 8, 2023. ("Revisions Definition of 'Waters of the United States'; Conforming" 88 Fed. Reg. 61964 (Sept. 8, 2023).) This Conforming Rule is in effect in California, but not in effect in 26 states due to ongoing litigation. In addition, federal district court declined to issue a preliminary injunction against implementation of the Conforming Rule, but that *Ruling* is being appealed (*White v. United States Environmental Protection Agency*, 737 F.Supp.3d 310 (E.D.N.C. 2024) [finding that "indistinguishability" is the consequence of a continuous surface connection, not an independent requirement]). In another

example, on March 12, 2025, U.S. EPA and the Army Corps announced a joint memorandum regarding implementation of “continuous surface connection” under the *Sackett Ruling* purporting to rescind the Agencies’ previous interpretations (Memorandum to the Field Between the U.S. Department of the Army, U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency Concerning Proper Implementation of “Continuous Surface Connection” Under the Definition of “Waters of the United States” Under the Clean Water Act (March 12, 2025) available at <https://www.epa.gov/system/files/documents/2025-03/2025cscguidance.pdf>).

In September 2025, the U.S. Office of Management and Budget issued its *Unified Agenda of Regulatory and Deregulatory Actions for Spring 2025*, which lays out a list of federal agency regulatory actions under development or review in the upcoming twelve months with their expected timeframes. This agenda lists a number of actions for U.S. EPA including an ambitious timeline for regulations defining waters of the U.S. to be finalized by January 2026 and regulations governing water quality certification to be finalized by June 2026. These actions are described as “deregulatory” and are highly likely to narrow the scope of waters covered by the Clean Water Act, possibly beyond what the *Sackett Ruling* requires, and limit the scope of water quality certifications. U.S. EPA and the Corps published proposed regulations defining waters of the U.S., Updated Definition of Waters of the U.S., in November, with public comment concluding on January 5, 2026. The proposed regulations would further limit the scope of waters of the U.S. It is highly likely that both sets of regulations will be subject to litigation just as prior regulatory efforts in both of these areas have been.

Ongoing and anticipated litigation regarding the scope of the *Sackett Ruling* make it difficult for the Water Boards to determine what authorities to rely on when making permitting and enforcement decisions.

5. Updates on Development of General Orders and Policies

As noted in section 3.1 of this report, despite the higher initial workload, where possible, the Water Boards have begun developing companion WDR to supplement existing 401 Certifications and are developing new general orders as both 401 Certifications and WDRs. For example, in July 2023, the Water Boards adopted waste discharge requirements for emergency projects that did not qualify for coverage under existing 401 Certifications of Army Corps Emergency Permits. Also, the current Army Corps Nationwide 404 Permits are set to expire in March 2026, and the Water Boards have begun coordinating with the Army Corps on certifying select permits. This development work may include adopting the orders as both 401 Certifications and WDR.

The State Water Board has begun scoping work necessary to build the Water Board's internal technical capacity to delineate non-wetland waters. While still in the project definition phase, the Water Boards anticipate that this will include:

- evaluating existing delineation tools, methods, and resources applicable to non-wetland waters,
- identifying best practices for delineation across different water types and site conditions,
- documenting limitations of existing tools and identifying scientific and procedural gaps,
- providing recommendations for addressing gaps and improving delineation consistency in California,
- establishing a foundation for training materials and capacity building among Water Board staff, and
- strengthening interagency coordination with U.S. EPA and Army Corps to ensure shared technical approaches.

As noted in Section 3.2, NPDES stormwater program staff are in the early stages of developing WDR to regulate point source discharges of stormwater to non-federal waters of the state. This includes researching other orders, including ones used in other states, and reviewing enrollee submittals that may reference not discharging to federal waters.

6. Regulatory Limitations under Current Statutes

In California, the Porter-Cologne Act can be a powerful tool to ensure state protections where federal protections are no longer available. The *Sackett Ruling* did not affect the definition of “waters of the state” in California. The Water Boards continue to have the authority to regulate discharges of waste that could affect any waters of the state, which is broadly defined as “any surface water or groundwater, including saline waters, within the boundaries of the state” (Wat. Code, §13050(e)). However, relying on Porter-Cologne alone, where the Clean Water Act is no longer applicable, presents additional procedural challenges and substantive limitations.

First, some important procedural efficiencies available for 401 Certifications are not available when project proponents discharge to waters that are no longer within the jurisdiction of the Clean Water Act and must apply for WDR from the applicable Water Board instead. More specifically, draft WDR must be available for public comment for at least 30 days prior to adoption in accordance with California Water Code section 13167.5. In contrast, 401 Certifications may be adopted after 21-day notice of the application, a time period that can also be shortened in cases of an emergency (Cal. Code of Regs., tit. 23, § 3858). Because notice of an application can be done as soon

as a request for certification is received, the public comment period generally does not delay the Water Boards' ability to act. The ability to act in a timely fashion is critical for dredge or fill projects that have public safety implications, such as flood control, road maintenance, and infrastructure repairs. For the vast majority of projects involving the discharge of dredged or fill material, the Water Boards do not receive public comments, and a longer public comment period is not necessary.

Whereas water quality certifications may be issued by the Regional Water Board Executive Officer (Cal. Code of Regs., tit. 23, § 3859), adoption of WDR for dredged or fill material to non-federal waters of the state must be by the Regional Water Board (Wat. Code, § 13223). At a minimum, bringing such an item to the Regional Water Board would require additional staff resources estimated at 140 hours per individual WDR. This increased workload includes additional noticing requirements, preparation of draft permits for public review, preparation of written responses to comments, and administrative tasks necessary to present the permit to the Regional Water Board at a board hearing prior to adoption. Furthermore, not all Regional Water Boards have meetings every month, which means that authorizations for some projects inherently require more time, even if the issuance WDR was uncontested. The restriction on delegation to Executive Officers applies to all WDR, even if the dredge or fill project does not have permanent impacts to waters or only very small impacts to waters of the state. Whether regulated by a 401 Certification or WDR, the discharge or dredged or fill material would be regulated with the same conditions, but the delegation restriction on the Regional Water Boards would result in an unavoidably longer and less efficient process with no corresponding benefit to water quality.

Second, where the Clean Water Act requires NPDES permits to be issued for discharges to Waters of the U.S., issuance of these permits is exempt from CEQA under existing Water Code section 13389. The State Water Board is developing WDR for industrial and construction stormwater discharges to waters that are no longer covered by the Clean Water Act. As there is no meaningful environmental difference associated with protecting waterbodies based on their jurisdictional status as Waters of the U.S., the WDR will likely be very similar to the current NPDES permits that are exempt from CEQA. Therefore, compliance with CEQA would add unnecessary time and costs for the issuance of these waste discharge requirements, but with virtually no benefits.

Third, the Water Boards will need to consider the Water Code section 13241 factors when issuing WDR for discharges to waters that are no longer covered by the Clean Water Act, even when just converting an existing NPDES permit to non-NPDES WDR. Water Code section 13241 requires the Water Boards to consider certain factors, including economic considerations, when establishing water quality objectives in a water quality control plan. Water Code section 13263 requires the Water Boards to consider

these section 13241 factors when issuing WDR. In *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, the California Supreme Court concluded that it is only necessary for the Water Boards to consider economics when issuing NPDES WDR that “exceed the requirements of the federal Clean Water Act.”

Some permittees have argued that a robust economic analysis, particularly concerning a permittee’s costs of compliance, is required prior to issuing WDR. The Water Boards expect there will be a significant increase in these types of claims. The work associated with a robust economic analysis is extensive and frequently results in delays in issuing WDR. Such an analysis is also unnecessary given that the Regional Water Boards were previously required to consider the Water Code section 13241 factors, including economic considerations, when establishing water quality objectives in their water quality control plans. Thus, additional consideration should be unnecessary when the Water Board is simply implementing those existing water quality objectives in WDR.

Fourth, the State Water Board has increased the pace at which it is engaging in statewide rulemakings to protect wetlands and other surface water bodies from continually emerging threats to water quality. The most efficient method for the State Water Board to adopt rulemakings that provide statewide, consistent water quality protections is by adopting and amending statewide water quality control plans. However, water quality control plans issued by the State Water Board are currently limited to Waters of the U.S. (Wat. Code, § 13170). In contrast, the Regional Water Boards are not so limited; regional water quality control plans may apply to all waters of the state within the region (Wat. Code, § 13240). To protect all waters of the state, the State Water Board must also rely on its state policy for water quality control authority (Wat. Code, § 13142). Adoption of state policy comes with additional procedural requirements (e.g., Wat. Code, § 13147).

In recent years, the State Water Board has been adopting its statewide water quality regulatory provisions (which almost always apply to all waters of the state, including both Waters of the U.S. and waters excluded by Clean Water Act jurisdiction) under both its Section 13140 and Section 13170 authorities because there is substantial overlap in the permissible contents of plans and policies. But the limitation set forth in section 13170 limiting state water quality control plans to only Waters of the U.S. thwarts the State Water Board’s ability to place all of these regulatory provisions in a single water quality control plan for ease of reference by regulated industry and the public, and to promote statewide consistency in applying the regulatory provisions. As Clean Water Act jurisdiction has shrunk, this limitation might also necessitate additional resources for the State Water Board to confirm that previously adopted state water quality control plans are also state policy, and therefore unquestionably apply to all waters of the state.

To provide better protection of Waters of the state, the Office of Enforcement is evaluating the Regional Water Board water quality control plans and developing a list of recommended additions and amendments to water quality control plans to promote enforceability after the *Sackett Ruling*. Because Water Code section 13170 limits state water quality control plans to waters covered by the Clean Water Act, the State Water Board cannot implement these recommendations on a statewide basis via a state water quality control plan (Wat. Code, § 13170). Instead, the process of amending water quality control plans must be done by each Regional Water Board and then approved by the State Water Board, a process that often takes multiple years (Wat. Code, §§ 13240-45). Amendments via a state water quality control plan would be a significantly more efficient way to provide statewide consistency and certainty as well as enhance the Water Boards' enforcement abilities under Porter-Cologne. Finally, the Water Boards do not have the same enforcement remedies under Porter-Cologne for discharges to waters that are no longer federally jurisdictional after the *Sackett Ruling*. As the entities tasked with enforcing the Porter-Cologne Act's differing authorities that apply to Waters of the U.S., as compared to those that apply to waters that do not qualify as Waters of the U.S., the Water Boards currently contend with several unintended discrepancies in the application of this authority.

Enforcement for violations of non-NPDES WDR and enforcement for unauthorized discharges to Waters of the State is limited solely to a specific set of violations, potential penalties under state law are not as high, and require additional evidentiary showings. Enforcement under the Porter-Cologne Act for discharges to waters that are no longer Waters of the U.S. are also subject to the following, additional regulatory limitations.

a) Requirement for Hearing before Referring Enforcement Cases for Civil Enforcement

Current law requires the Water Boards to hold a hearing "with due notice of the hearing given to all affected parties" prior to referring a case to the Attorney General for potential enforcement of violations related to waters that do not qualify as Waters of the U.S. This substantially restricts the Water Boards' ability to swiftly obtain litigation counsel to evaluate alleged violations and unnecessarily delays enforcement. The Water Boards are not required to provide such hearings under the Clean Water Act for dischargers that affect Waters of the U.S.

b) Clarification of Authority to Require Submittals related to Restoration of Water Quality

The Water Boards anticipate the need to issue more Water Code section 13304 cleanup and abatement orders to protect and restore waters that do not qualify as Waters of the U.S. from discharges and threatened discharges as a result of the *Sackett* ruling. Water Code section 13304 is currently ambiguous as to

whether it includes authority to require technical and monitoring reports that are described in Water Code section 13267, which has resulted in the Water Boards needing to cite to both sections in its cleanup orders. Requiring investigation of the extent of contamination is a critical step in the cleanup process and the failure to comply can significantly delay the remediation process. The current ambiguity results in the Water Boards having to pursue enforcement under Water Code section 13268 for the failure to submit these critical preliminary investigatory reports, which carries a much lesser penalty than those available under section 13350 for violations of section 13304 cleanup and abatement orders.

c) Eliminate Requirement for Written Notice Prior to Enforcement for Unpermitted Discharges

Under current law, in the absence of Water Boards' WDR, waiver conditions, certifications, or other orders or prohibitions prohibiting a discharge, the Water Boards are required to give a written warning for illegal discharges to non-federal waters of the state and can only then take enforcement actions for any subsequent illegal discharges that occur. This substantially restricts the Water Boards' ability to take swift and effective enforcement for significant illegal discharges from septic systems, sewage pipeline spills, and other types of violations that impact only non-federal waters of the state. The Water Boards are not required to provide such written notices for unpermitted discharges to Waters of the U.S.

In combination, these limitations do not offer the same deterrent effect as enforcement of Clean Water Act violations and the process by which to obtain any penalties is more resource intensive. These differences result in a lower level of water quality protection for groundwater, wetlands, and many tributary streams, as compared to rivers, lakes, and other relatively permanent surface waters that continue to qualify as Waters of the U.S. Equal levels of protection for all waters of the state regardless of their current or future status as Waters of the U.S. would provide regulatory certainty and would better protect the public health, environmental, and water resource functions of clean water.

7. Conclusion

The *Sackett* Ruling has fundamentally altered the regulatory landscape for water quality protection in California. By significantly narrowing the scope of waters protected under the federal Clean Water Act, the *Ruling* has increased the workload onto the Water Boards to safeguard waters of the state through state law authorities, particularly the Porter-Cologne Act.

This report has documented the resulting impacts on workload, permitting, enforcement, and legal interpretation. The data confirms that the resources provided through the 2024 Budget Act were both necessary and well-targeted. However, the scale and complexity of the challenges, especially at the Regional Water Board level, underscore the need for continued investment in staffing, technical capacity, and other actions in order to maintain adequate environmental protections while avoiding becoming a bottleneck to approval and implementation of important efforts, including infrastructure, housing, habitat restoration, and clean energy.

The Water Boards are actively adapting through the development of new general orders, enhanced enforcement strategies, and improved internal tools. The Water Boards remain committed to working with the Legislature and the public to uphold the state's longstanding commitment to clean water for all Californians.

