

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2398

Introduced by Assembly Member Hueso
(Principal coauthor: Assembly Member Huffman)

February 24, 2012

An act to amend Section 6103.4 of, and to repeal Article 10.9 (commencing with Section 65601) of Chapter 3 of Division 1 of Title 7 of, the Government Code, to amend Sections 28, 5410, 5411, and 5411.5 of, and to add Chapter 20 (commencing with Section 26300) to Division 20 of, and to repeal Section 116815 of, the Health and Safety Code, to repeal Article 10.9 (commencing with Section 65601) of Chapter 3 of Division 1 of Title 7 of the Government Code, to amend Section 1502 of the Public Utilities Code, and to amend Sections 1058.5, 10616.5, 13050, 13167.5, 13260, 13263, and 13271 of, to add Section 10781.1 to, to add Division 8 (commencing with Section 18000) to, to repeal Section 18034 of, to repeal Chapter 6 (commencing with Section 460) of Division 1 of, to repeal Chapter 7.3 (commencing with Section 13560) and Chapter 7.5 (commencing with Section 13575) of, to repeal and add Section 10781 of, and to repeal and add Chapter 7 (commencing with Section 13500) of Division 7 of, the Water Code, relating to water recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, Hueso. Water recycling.

Existing law establishes the State Water Resources Control Board (state board) and the California regional water quality control boards as the principal state agencies with authority over matters relating to water quality. Existing law requires the State Department of Public

Health (department) to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge, as defined, by December 31, 2013. Existing law requires the department to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel convened by the department finds that the criteria would adequately protect public health. Existing law requires the department to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse, as defined, and to provide a final report on that investigation to the Legislature by December 31, 2016. Existing law requires the department, in consultation with the state board, to report to the Legislature from 2011 to 2016, inclusive, as part of the annual budget process, on the progress towards developing and adopting the water recycling criteria for surface water augmentation and its investigation of the feasibility of developing water recycling criteria for direct potable reuse. Existing law requires the state board to enter into an agreement with the department to assist in implementing the water recycling criteria provisions.

This bill would enact the Water Recycling Act of 2012 to revise and consolidate those and other provisions relating to recycled water, and make other conforming changes to existing law. The act would establish a statewide goal to recycle a total of 1.5 million acre-feet of water per year by the year 2020 and 2.5 million acre-feet of water per year by the year 2030. The act would require the state board and regional boards, the department, the Public Utilities Commission, the Department of Water Resources, and other state agencies to exercise the authority and discretion granted to them by the Legislature to encourage the use of recycled water and meet the goals of the act. The act would ~~state that it is the intent of the Legislature that the department permit potable reuse projects using advanced treated purified water and that the state board and regional boards permit nonpotable reuse projects and potable reuse projects using potable water other than advanced treated purified water.~~ *require the department, on or before December 31, 2013, to adopt drinking water criteria for groundwater recharge projects utilizing recycled water. The bill would require the department, on or before December 31, 2016, to develop and adopt drinking water criteria for the use of advanced treated purified water for raw water augmentation projects not subject to the drinking water criteria for groundwater recharge projects utilizing recycled water. The act would subject those criteria to review by an expert panel convened and administered by the*

department to advise the department on public health issues and scientific and technical matters. The act would prescribe the types and contents of permits for recycled water to be issued by the state board or a regional board, as appropriate. Because certain reports submitted as part of the permit application process would be submitted under penalty of perjury, this bill would impose a state-mandated local program by creating a new crime. The act would establish the Water Recycling Research Fund and require that certain civil penalties be deposited into the fund, to be expended by the state board, upon appropriation by the Legislature, to conduct or fund research necessary to support the continued and safe use of recycled water in the state.

The bill would also authorize the department to issue permits *in accordance with prescribed procedures for raw water augmentation projects utilizing advanced treated purified water in conformance with the uniform drinking water criteria established pursuant to the act to specified entities, and permits for treated water augmentation projects to public water systems. The bill would subject permittees to filing and permit fees established by the department. Revenues from those fees would be required to be deposited in the Augmentation Permit Fund, which the bill would create. The money in the fund would be available, upon appropriation by the Legislature, solely for the purposes of the permit program.*

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 6103.4 of the Government Code is*
- 2 *amended to read:*
- 3 *6103.4. Section 6103 does not apply to any fee or charge for*
- 4 *official services required by ~~Section 100860 of the Health and~~*
- 5 *~~Safety Code, or Part 5 (commencing with Section 4999) of Division~~*
- 6 *2, ~~or~~ Division 7 (commencing with Section 13000), or Division 8*
- 7 *(commencing with Section 18000), of the Water Code.*

1 SEC. 2. Article 10.9 (commencing with Section 65601) of
2 Chapter 3 of Division 1 of Title 7 of the Government Code is
3 repealed.

4 ~~SECTION 1.~~

5 SEC. 3. Section 28 of the Health and Safety Code is amended
6 to read:

7 28. For the purposes of this code, “recycled water” or
8 “reclaimed water” has the same meaning as “recycled water” as
9 defined in subdivision (n) of Section 13050 of the Water Code.

10 ~~SEC. 2.~~

11 SEC. 4. Section 5410 of the Health and Safety Code is amended
12 to read:

13 5410. As used in this chapter:

14 (a) “Waste” includes sewage and any and all other waste
15 substances, liquid, solid, gaseous, or radioactive, associated with
16 human habitation, or of human or animal origin, or from any
17 producing, manufacturing, or processing operation of whatever
18 nature.

19 (b) “Person” as used in this article also includes any city,
20 county, district, the state or any department or agency thereof.

21 (c) “Waters of the state” means any water, surface or
22 underground, including saline waters, within the boundaries of the
23 state.

24 (d) “Contamination” means an impairment of the quality of the
25 waters of the state by waste to a degree which creates a hazard to
26 the public health through poisoning or through the spread of
27 disease. “Contamination” shall include any equivalent effect
28 resulting from the disposal of waste, whether or not waters of the
29 state are affected.

30 (e) “Pollution” means an alteration of the quality of the waters
31 of the state by waste to a degree which unreasonably affects: (1)
32 such waters for beneficial uses, or (2) facilities which serve such
33 beneficial uses. “Pollution” may include “contamination.”

34 (f) “Nuisance” means anything which: (1) is injurious to health,
35 or is indecent or offensive to the senses, or an obstruction to the
36 free use of property, so as to interfere with the comfortable
37 enjoyment of life or property, and (2) affects at the same time an
38 entire community or neighborhood, or any considerable number
39 of persons, although the extent of the annoyance or damage
40 inflicted upon individuals may be unequal, and (3) occurs during,

1 or as a result of, the treatment or disposal of wastes. ~~The use of~~
2 ~~recycled water, as defined in Section 18005 of the Water Code,~~
3 ~~and in accordance with the requirements of the Water Recycling~~
4 ~~Act of 2012 (Division 8 (commencing with Section 18000) of the~~
5 ~~Water Code) or the requirements of this division does not create~~
6 ~~a nuisance.~~

7 (g) “Regional board” means any California regional water
8 quality control board created pursuant to Section 13201 of the
9 Water Code.

10 ~~SEC. 3.~~

11 *SEC. 5.* Section 5411 of the Health and Safety Code is amended
12 to read:

13 5411. A person shall not discharge sewage or other waste, or
14 the effluent of treated sewage or other waste, in any manner that
15 will result in contamination, pollution or a nuisance. This section
16 does not apply to the use of recycled water, as defined in Section
17 18005 of the Water Code, and in accordance with the requirements
18 of the Water Recycling Act of 2012 (Division 8 (commencing with
19 Section 18000) of the Water Code) or the requirements of this
20 division.

21 ~~SEC. 4.~~

22 *SEC. 6.* Section 5411.5 of the Health and Safety Code is
23 amended to read:

24 5411.5. (a) Any person who, without regard to intent or
25 negligence, causes or permits any sewage or other waste, or the
26 effluent of treated sewage or other waste to be discharged in or on
27 any waters of the state, or discharged in or deposited where it is,
28 or probably will be, discharged in or on any waters of the state, as
29 soon as that person has knowledge of the discharge, shall
30 immediately notify the local health officer or the director of
31 environmental health of the discharge.

32 (b) Any person who fails to provide the notice required by this
33 section is guilty of a misdemeanor and shall be punished by a fine
34 of not less than five hundred dollars (\$500) nor more than one
35 thousand dollars (\$1,000), or imprisonment for less than one year,
36 or both the fine and imprisonment.

37 (c) The notification required by this section shall not apply to
38 a discharge authorized by law and in compliance with waste
39 discharge requirements or other requirements established by the

1 appropriate regional water quality control board or the State Water
2 Resources Control Board.

3 (d) This section does not apply to the use of recycled water, as
4 defined in Section 18005 of the Water Code, and in accordance
5 with the requirements of the Water Recycling Act of 2012
6 (Division 8 (commencing with Section 18000) of the Water Code)
7 or the requirements of this division.

8 ~~SEC. 5.~~

9 *SEC. 7.* Chapter 20 (commencing with Section 26300) is added
10 to Division 20 of the Health and Safety Code, to read:

11

12 CHAPTER 20. GROUNDWATER AQUIFER RECHARGE

13

14 26300. The Legislature finds and declares the following:

15 (a) Advanced treated purified water is being used to recharge
16 groundwater aquifers in California through direct injection of the
17 aquifer.

18 (b) Advanced treatment facilities, operated in California, have
19 demonstrated the ability of advanced treated purified water
20 technologies to reliably produce water of a higher quality than
21 most raw surface water sources in California.

22 (c) If the planned introduction of advanced treated purified water
23 into a raw water supply can be demonstrated to be safe and feasible,
24 its use will significantly aid in achieving the state board’s recycling
25 goals.

26 (d) Upon completing a rigorous review and public process for
27 determining the safety of utilizing advanced treated purified water
28 for raw water augmentation, clear authority needs to be established
29 for the permitting of such a project.

30 (e) This chapter is not intended to delay, invalidate, or reverse
31 any study or project, or development of regulations by the
32 department regarding the use of recycled water for ~~groundwater~~
33 ~~recharge, surface water augmentation, or direct~~ potable reuse.

34 26301. As used in this chapter, ~~“advanced treated purified~~
35 ~~water” means _____.~~

36 (a) *“Advanced treated purified water recharge project” means*
37 *a raw water augmentation project to recharge groundwater*
38 *utilizing advanced treated purified water.*

39 (b) *“Advanced treated purified water,” “potable reuse,” “raw*
40 *water,” “raw water augmentation,” “treated water augmentation,”*

1 and “uniform drinking water criteria” have the same meanings
2 as those terms are defined in Section 18005 of the Water Code.

3 (c) “Fund” means the Augmentation Permit Fund created by
4 subdivision (d) of Section 26304.

5 26302. (a) The department shall issue permits for raw water
6 augmentation projects utilizing advanced treated purified water.

7 (b) Each person who is subject to a permit pursuant to this
8 section shall submit an annual fee to the department according to
9 a fee schedule established by the department in conformance with
10 this section.

11 (c) The total amount of annual fees collected pursuant to this
12 section shall not exceed the amount necessary to recover costs
13 incurred in connection with the issuance, administration, reviewing,
14 monitoring, and enforcement of permits for the use of advanced
15 treated purified water.

16 (d) Recoverable costs may include, but are not limited to, costs
17 incurred in reviewing monitoring reports; prescribing permit terms
18 and monitoring requirements; enforcing and evaluating compliance
19 with permits; analyzing laboratory samples; reviewing documents
20 prepared for the purpose of regulating the use of advanced treated
21 purified water; development of uniform criteria for potable and
22 nonpotable uses pursuant to Article 1 (commencing with Section
23 18020) and Article 2 (commencing with Section 18030) of Chapter
24 3 of Division 8 of the Water Code; and administrative costs
25 incurred in connection with carrying out these actions.

26 (e) The fee paid to the department for any permit for an
27 advanced treated purified water project shall not exceed twenty-five
28 thousand dollars (\$25,000) per year.

29 26303. The department shall not issue a permit to a public
30 water system or amend a valid existing permit for a raw water
31 augmentation project utilizing advanced treated purified water
32 unless the department does all of the following:

33 (a) Performs an engineering evaluation that evaluates the
34 proposed treatment technology and finds that the proposed
35 technology will ensure that the advanced treated purified water
36 meets or exceeds all applicable primary and secondary drinking
37 water standards and poses no significant threat to public health.

38 (b) Holds at least three duly noticed public hearings in the area
39 where the advanced treated purified water is proposed to be used
40 or supplied for human consumption to receive testimony from the

1 public and the regional board on that proposed use. The department
2 shall make available to the public, not less than 10 days prior to
3 the date of the first hearing held pursuant to this subdivision, the
4 evaluations and findings made pursuant to subdivision (a).

5 *26302. Advanced treated purified water is a source of supply*
6 *under Section 116550 and is not a waste under subdivision (d) of*
7 *Section 13050 of the Water Code or subdivision (a) of Section*
8 *5410.*

9 *26303. (a) The department may issue a permit for a raw water*
10 *augmentation project to a producer, wholesaler, or supplier of*
11 *recycled water, an entity responsible for groundwater*
12 *replenishment, or a combination thereof.*

13 *(b) A permit for a treated water augmentation project may be*
14 *issued to a public water system.*

15 *(c) The department shall not issue a permit or amend a valid*
16 *existing permit for a raw water augmentation or treated water*
17 *augmentation project utilizing advanced treated purified water*
18 *unless the department does all of the following:*

19 *(1) Performs an engineering evaluation that evaluates the*
20 *proposed treatment technology and finds that the proposed*
21 *technology will ensure that the advanced treated purified water*
22 *meets the drinking water criteria established pursuant to Section*
23 *18031 of the Water Code and poses no significant threat to public*
24 *health. The department may require the submission of a*
25 *preconstruction report for the purpose of determining compliance*
26 *with the drinking water criteria.*

27 *(2) Consults with the state board or regional board regarding*
28 *the consistency of the project with the applicable water quality*
29 *control plan and other applicable plans and policies.*

30 *(3) Holds at least one duly noticed public hearing in the area*
31 *where the advanced treated purified water is proposed to be used*
32 *or supplied for human consumption and receives public testimony*
33 *on that proposed use. The department shall make available to the*
34 *public, not less than 30 days prior to the date of the first hearing*
35 *held pursuant to this subdivision, the evaluations and findings*
36 *made pursuant to paragraph (1) of subdivision (c). The department*
37 *shall receive and consider any written comments and public*
38 *testimony regarding the issuance of the proposed permit.*

39 *(d) (1) Notwithstanding subdivision (a), at any time before the*
40 *drinking water criteria are adopted pursuant to Section 18031 of*

1 *the Water Code, if the department, in consultation with the regional*
2 *board and after a public hearing, finds a proposed raw water*
3 *augmentation project will not degrade the quality of the receiving*
4 *water as a source of water supply for domestic purposes, the*
5 *department may permit the advanced treated purified water*
6 *recharge project on a case-by-case basis.*

7 *(2) If the department makes the finding specified in paragraph*
8 *(1), the department shall consider current and potential future*
9 *public health consequences of the controlled recharge before*
10 *permitting the project.*

11 *26304. (a) (1) Each person who applies for a permit in*
12 *accordance with subdivision (a) or (b) of Section 26303 shall pay*
13 *a permit filing fee according to a fee schedule established, and*
14 *periodically adjusted as appropriate, by the department in*
15 *conformance with this section.*

16 *(2) The department shall provide notice and a period of at least*
17 *30 days for public comment prior to the adoption or adjustment*
18 *of any permit filing fee as described in paragraph (1). The*
19 *notification may be provided by mailing a draft of the proposed*
20 *permit filing fee to each person who has requested notice of the*
21 *specific item, or by posting a draft of the proposed fee on the*
22 *official Internet Web site maintained by the department, and*
23 *providing notice of that posting by electronic mail to each person*
24 *who has requested notice.*

25 *(3) Any permit filing fee adopted by the department, or*
26 *adjustments thereto, shall not be subject to Chapter 3.5*
27 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
28 *2 of the Government Code, and shall remain in effect until revised*
29 *by the department.*

30 *(b) A fee charged pursuant to this section shall equal the amount*
31 *necessary to recoup the regulatory costs incurred by the*
32 *department in issuing a permit pursuant to subdivision (a) or (b)*
33 *of Section 26303.*

34 *(c) The permit filing fee shall be paid before the department*
35 *may deem the application for a permit described in subdivision*
36 *(a) or (b) of Section 26303 to be complete.*

37 *(d) The permit filing fees collected pursuant to this section shall*
38 *be deposited in the Augmentation Permit Fund, which is hereby*
39 *created. The money in the fund is available for expenditure by the*

1 department, upon appropriation by the Legislature, solely for the
2 purposes specified in subdivision (b).

3 26305. (a) (1) Each person who is subject to a permit as
4 described in subdivision (a) or (b) of Section 26303, or a water
5 recycling permit issued by the state board or regional board
6 pursuant to Section 18210 or 18212 of the Water Code, shall
7 submit an annual fee to the department according to a fee schedule
8 established, and periodically adjusted as appropriate, by the
9 department in conformance with this section.

10 (2) The department shall establish, by regulation, a timetable
11 for payment of the annual fee.

12 (3) The department shall provide notice and a period of at least
13 30 days for public comment prior to the adoption or adjustment
14 of any annual fee, as described in paragraph (1), or timetable, as
15 described in paragraph (2). The notification may be provided by
16 mailing a draft of the proposed fee or timetable, as applicable, to
17 each person who has requested notice of the specific item, or by
18 posting a draft of the proposed fee or timetable, as applicable, on
19 the official Internet Web site maintained by the department, and
20 providing notice of that posting by electronic mail to each person
21 who has requested notice.

22 (4) Any annual fee or timetable adopted by the department, or
23 adjustments thereto, shall not be subject to the requirements of
24 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
25 3 of Title 2 of the Government Code, and shall remain in effect
26 until revised by the department.

27 (b) The total amount of annual fees collected pursuant to this
28 section shall equal that amount necessary to recoup the
29 recoverable costs, as described in subdivision (c) of this section,
30 incident to performing the necessary investigations, inspections,
31 and audits for permits for the use of advanced treated purified
32 water and the administrative enforcement and adjudication of
33 those permits, and consultation with the state board or regional
34 board regarding permits issued by the state board or a regional
35 board pursuant to Section 18210 or 18212 of the Water Code.

36 (c) Recoverable costs include those costs incurred by the
37 department in reviewing monitoring reports; prescribing permit
38 terms and monitoring requirements; enforcing and evaluating
39 compliance with permits; analyzing laboratory samples; reviewing
40 documents prepared for the purpose of regulating permits for the

1 *use of advanced treated purified water; and administrative costs*
2 *incurred in connection with carrying out these actions.*

3 *(d) The fees collected pursuant to this section shall be deposited*
4 *in the Augmentation Permit Fund.*

5 *SEC. 8. Section 116815 of the Health and Safety Code is*
6 *repealed.*

7 ~~116815. (a) All pipes installed above or below the ground, on~~
8 ~~and after June 1, 1993, that are designed to carry recycled water,~~
9 ~~shall be colored purple or distinctively wrapped with purple tape.~~

10 ~~(b) Subdivision (a) shall apply only in areas served by a water~~
11 ~~supplier delivering water for municipal and industrial purposes,~~
12 ~~and in no event shall apply to any of the following:~~

13 ~~(1) Municipal or industrial facilities that have established a~~
14 ~~labeling or marking system for recycled water on their premises,~~
15 ~~as otherwise required by a local agency, that clearly distinguishes~~
16 ~~recycled water from potable water.~~

17 ~~(2) Water delivered for agricultural use.~~

18 ~~(c) For purposes of this section, “recycled water” has the same~~
19 ~~meaning as defined in subdivision (n) of Section 13050 of the~~
20 ~~Water Code.~~

21 ~~SEC. 6. Article 10.9 (commencing with Section 65601) of~~
22 ~~Chapter 3 of Division 1 of Title 7 of the Government Code is~~
23 ~~repealed.~~

24 ~~SEC. 7.~~

25 *SEC. 9. Section 1502 of the Public Utilities Code is amended*
26 *to read:*

27 *1502. (a) As used in this chapter, “political subdivision” means*
28 *a county, city and county, city, municipal water district, county*
29 *water district, irrigation district, public utility district, California*
30 *water district, or any other public corporation.*

31 *(b) As used in this chapter, “service area” means an area served*
32 *by a privately owned public utility in which the facilities have*
33 *been dedicated to public use and in which territory the utility is*
34 *required to render service to the public.*

35 *(c) As used in this chapter, “operating system” means an*
36 *integrated water system for the supply of water to a service area*
37 *of a privately owned public utility.*

38 *(d) As used in this chapter, “private utility” means a privately*
39 *owned public utility providing a water service.*

1 (e) As used in this chapter, “type of service” means, among
 2 other things, domestic, commercial, industrial, fire protection,
 3 wholesale, or irrigation service.

4 (f) As used in this chapter, “reclaimed water” means recycled
 5 water as defined in Section 13050 of the Water Code.

6 (g) As used in this chapter, “private use” means an entity’s use
 7 of its own reclaimed water.

8 ~~SEC. 8.~~

9 *SEC. 10.* Chapter 6 (commencing with Section 460) of Division
 10 1 of the Water Code is repealed.

11 ~~SEC. 9.~~

12 *SEC. 11.* Section 1058.5 of the Water Code is amended to read:

13 1058.5. (a) This section applies to any emergency regulation
 14 adopted by the board for which the board makes both of the
 15 following findings:

16 (1) The emergency regulation is adopted to prevent the waste,
 17 unreasonable use, unreasonable method of use, or unreasonable
 18 method of diversion, of water, to promote water recycling, or to
 19 promote water conservation.

20 (2) The emergency regulation is adopted in response to
 21 conditions which exist, or are threatened, in a critically dry year
 22 immediately preceded by two or more consecutive dry or critically
 23 dry years.

24 (b) Notwithstanding Sections 11346.1 and 11349.6 of the
 25 Government Code, any findings of emergency adopted by the
 26 board, in connection with the adoption of an emergency regulation
 27 to which this section applies, are not subject to review by the Office
 28 of Administrative Law.

29 (c) Any emergency regulation adopted by the board to which
 30 this section applies may remain in effect for up to 270 days, as
 31 determined by the board, and is deemed repealed immediately
 32 upon a finding by the board that due to changed conditions it is
 33 no longer necessary for the regulation to remain in effect.

34 ~~SEC. 10.~~

35 *SEC. 12.* Section 10616.5 of the Water Code is amended to
 36 read:

37 10616.5. “Recycled water” has the same meaning as defined
 38 in subdivision (n) of Section 13050.

39 *SEC. 13.* *Section 10781 of the Water Code is repealed.*

1 ~~10781. In order to improve comprehensive groundwater~~
2 ~~monitoring and increase the availability to the public of information~~
3 ~~about groundwater contamination, the state board, in consultation~~
4 ~~with other responsible agencies, as specified in this section, shall~~
5 ~~do all of the following:~~

6 ~~(a) Integrate existing monitoring programs and design new~~
7 ~~program elements as necessary to establish a comprehensive~~
8 ~~monitoring program capable of assessing each groundwater basin~~
9 ~~in the state through direct and other statistically reliable sampling~~
10 ~~approaches. The interagency task force established pursuant to~~
11 ~~subdivision (b) shall determine the constituents to be included in~~
12 ~~the monitoring program. In designing the comprehensive~~
13 ~~monitoring program, the state board, among other things, shall~~
14 ~~integrate projects established in response to the Supplemental~~
15 ~~Report of the 1999 Budget Act, strive to take advantage of and~~
16 ~~incorporate existing data whenever possible, and prioritize~~
17 ~~groundwater basins that supply drinking water.~~

18 ~~(b) (1) Create an interagency task force for all of the following~~
19 ~~purposes:~~

20 ~~(A) Identifying actions necessary to establish the monitoring~~
21 ~~program.~~

22 ~~(B) Identifying measures to increase coordination among state~~
23 ~~and federal agencies that collect information regarding groundwater~~
24 ~~contamination in the state.~~

25 ~~(C) Designing a database capable of supporting the monitoring~~
26 ~~program that is compatible with the state board's geotracker~~
27 ~~database.~~

28 ~~(D) Assessing the scope and nature of necessary monitoring~~
29 ~~enhancements.~~

30 ~~(E) Identifying the cost of any recommended measures.~~

31 ~~(F) Identifying the means by which to make monitoring~~
32 ~~information available to the public.~~

33 ~~(2) The interagency task force shall consist of a representative~~
34 ~~of each of the following entities:~~

35 ~~(A) The state board.~~

36 ~~(B) The department.~~

37 ~~(C) The State Department of Health Services.~~

38 ~~(D) The Department of Pesticide Regulation.~~

39 ~~(E) The Department of Toxic Substances Control.~~

40 ~~(F) The Department of Food and Agriculture.~~

1 ~~(e) Convene an advisory committee to the interagency task~~
2 ~~force, with a membership that includes all of the following:~~
3 ~~(1) Two representatives of appropriate federal agencies, if those~~
4 ~~agencies wish to participate.~~
5 ~~(2) Two representatives of public water systems, one of which~~
6 ~~shall be a representative of a retail water supplier.~~
7 ~~(3) Two representatives of environmental organizations.~~
8 ~~(4) Two representatives of the business community.~~
9 ~~(5) One representative of a local agency that is currently~~
10 ~~implementing a plan pursuant to Part 2.75 (commencing with~~
11 ~~Section 10750).~~
12 ~~(6) Two representatives of agriculture.~~
13 ~~(7) Two representatives from groundwater management entities.~~
14 ~~(d) (1) The members of the advisory committee may receive a~~
15 ~~per diem allowance for each day's attendance at a meeting of the~~
16 ~~advisory committee.~~
17 ~~(2) The members of the advisory committee may be reimbursed~~
18 ~~for actual and necessary travel expenses incurred in connection~~
19 ~~with their official duties.~~
20 *SEC. 14. Section 10781 is added to the Water Code, to read:*
21 *10781. The Legislature finds and declares the following:*
22 *(a) Development of dependable and scientifically valid*
23 *information in a cost-effective manner regarding monitoring of*
24 *the state's groundwater supplies is critical to the future*
25 *management of local groundwater supplies for public health and*
26 *safety.*
27 *(b) The state board adopted the Recycled Water Policy*
28 *(Resolution 2009-0011) in order to increase sustainable local*
29 *water supplies available for meeting existing and future beneficial*
30 *uses by increasing the acceptance and use of recycled water to*
31 *recharge local groundwater basins.*
32 *(c) The Recycled Water Policy calls for development of salt and*
33 *nutrient management plans for groundwater basins and subbasins*
34 *throughout the state within five years. As part of these salt and*
35 *nutrient management plans, the state board requires monitoring*
36 *of emerging constituents and constituents of emerging concern*
37 *(emerging constituents). The state board intends to incorporate*
38 *these plans and emerging constituent monitoring requirements*
39 *into its regional water quality control plans as part of the*
40 *implementation plans, pursuant to Section 13242.*

1 (d) To ensure the development of dependable, scientifically valid
2 data regarding the presence of emerging constituents in
3 groundwater throughout the state, monitoring for emerging
4 constituents shall be included in the Groundwater Ambient
5 Monitoring and Assessment Program rather than in salt and
6 nutrient management plans.

7 SEC. 15. Section 10781.1 is added to the Water Code, to read:

8 10781.1. In order to improve comprehensive groundwater
9 monitoring and increase the availability to the public of
10 information about groundwater contamination, the state board
11 shall do all of the following:

12 (a) In consultation with other responsible agencies, as specified
13 in subdivision (c), integrate existing monitoring programs and
14 design new program elements as necessary to establish a
15 comprehensive monitoring program capable of assessing each
16 groundwater basin in the state through direct and other statistically
17 reliable sampling approaches. The interagency task force
18 established pursuant to subdivision (c) shall determine the
19 constituents to be included in the monitoring program. In designing
20 the comprehensive monitoring program, the state board, among
21 other things, shall integrate projects established in response to
22 the Supplemental Report of the 1999 Budget Act, strive to take
23 advantage of and incorporate existing data whenever possible,
24 and prioritize groundwater basins that supply drinking water.

25 (b) The state board shall determine the emerging constituents
26 to be monitored consistent with the recommendations of the
27 advisory panel pursuant to the Recycled Water Policy (Resolution
28 2009-0011). The interagency task force established pursuant to
29 subdivision (c) shall determine the other constituents, other than
30 emerging constituents, to be included in the monitoring program.
31 Monitoring required pursuant to this subdivision shall replace all
32 required monitoring of emerging constituents by local entities
33 implementing water supply management in the state's groundwater
34 basins pursuant to salt and nutrient management plans or regional
35 water quality control plans, required pursuant to the state board's
36 Recycled Water Policy (Resolution 2009-0011) and regional water
37 quality control plans under Article 3 (commencing with Section
38 13242). The state and regional boards shall rely on this statewide
39 database of ambient groundwater quality to the extent practicable.

- 1 (c) (1) Create an interagency task force for all of the following
2 purposes:
- 3 (A) Identifying actions necessary to establish the monitoring
4 program.
- 5 (B) Identifying measures to increase coordination among state
6 and federal agencies that collect information regarding
7 groundwater contamination in the state.
- 8 (C) Designing a database capable of supporting the monitoring
9 program that is compatible with the state board's geotracker
10 database.
- 11 (D) Assessing the scope and nature of necessary monitoring
12 enhancements.
- 13 (E) Identifying the cost of any recommended measures.
- 14 (F) Identifying the means by which to make monitoring
15 information available to the public.
- 16 (2) The interagency task force shall consist of a representative
17 of each of the following entities:
- 18 (A) The state board.
- 19 (B) The department.
- 20 (C) The State Department of Public Health.
- 21 (D) The Department of Pesticide Regulation.
- 22 (E) The Department of Toxic Substances Control.
- 23 (F) The Department of Food and Agriculture.
- 24 (d) Convene an advisory committee to the interagency task
25 force, with a membership that includes all of the following:
- 26 (1) Two representatives of appropriate federal agencies, if those
27 agencies wish to participate.
- 28 (2) Two representatives of public water systems, one of which
29 shall be a representative of a retail water supplier.
- 30 (3) Two representatives of environmental organizations.
- 31 (4) Two representatives of the business community.
- 32 (5) One representative of a local agency that is currently
33 implementing a plan pursuant to Part 2.75 (commencing with
34 Section 10750).
- 35 (6) Two representatives of agriculture.
- 36 (7) Two representatives from groundwater management entities.
- 37 (e) (1) The members of the advisory committee may receive a
38 per diem allowance for each day's attendance at a meeting of the
39 advisory committee.

1 (2) *The members of the advisory committee may be reimbursed*
2 *for actual and necessary travel expenses incurred in connection*
3 *with their official duties.*

4 ~~SEC. 11.~~

5 SEC. 16. Section 13050 of the Water Code is amended to read:
6 13050. As used in this division:

7 (a) “State board” means the State Water Resources Control
8 Board.

9 (b) “Regional board” means any California regional water
10 quality control board for a region as specified in Section 13200.

11 (c) “Person” includes any city, county, district, the state, and
12 the United States, to the extent authorized by federal law.

13 (d) “Waste” includes sewage and any and all other waste
14 substances, liquid, solid, gaseous, or radioactive, associated with
15 human habitation, or of human or animal origin, or from any
16 producing, manufacturing, or processing operation, including waste
17 placed within containers of whatever nature prior to, and for
18 purposes of, disposal.

19 (e) “Waters of the state” means any surface water or
20 groundwater, including saline waters, within the boundaries of the
21 state.

22 (f) “Beneficial uses” of the waters of the state that may be
23 protected against quality degradation include, but are not limited
24 to, domestic, municipal, agricultural and industrial supply; power
25 generation; recreation; aesthetic enjoyment; navigation; and
26 preservation and enhancement of fish, wildlife, and other aquatic
27 resources or preserves.

28 (g) “Quality of the water” refers to chemical, physical,
29 biological, bacteriological, radiological, and other properties and
30 characteristics of water which affect its use.

31 (h) “Water quality objectives” means the limits or levels of
32 water quality constituents or characteristics which are established
33 for the reasonable protection of beneficial uses of water or the
34 prevention of nuisance within a specific area.

35 (i) “Water quality control” means the regulation of any activity
36 or factor which may affect the quality of the waters of the state
37 and includes the prevention and correction of water pollution and
38 nuisance.

1 (j) “Water quality control plan” consists of a designation or
2 establishment for the waters within a specified area of all of the
3 following:

4 (1) Beneficial uses to be protected.

5 (2) Water quality objectives.

6 (3) A program of implementation needed for achieving water
7 quality objectives.

8 (k) “Contamination” means an impairment of the quality of the
9 waters of the state by waste to a degree which creates a hazard to
10 the public health through poisoning or through the spread of
11 disease. “Contamination” includes any equivalent effect resulting
12 from the disposal of waste, whether or not waters of the state are
13 affected.

14 (l) (1) “Pollution” means an alteration of the quality of the
15 waters of the state by waste to a degree which unreasonably affects
16 either of the following:

17 (A) The waters for beneficial uses.

18 (B) Facilities which serve these beneficial uses.

19 (2) “Pollution” may include “contamination.”

20 (m) “Nuisance” means anything which meets all of the following
21 requirements:

22 (1) Is injurious to health, or is indecent or offensive to the senses,
23 or an obstruction to the free use of property, so as to interfere with
24 the comfortable enjoyment of life or property.

25 (2) Affects at the same time an entire community or
26 neighborhood, or any considerable number of persons, although
27 the extent of the annoyance or damage inflicted upon individuals
28 may be unequal.

29 (3) Occurs during, or as a result of, the treatment or disposal of
30 wastes.

31 (n) “Recycled water” means water which, as a result of treatment
32 of waste, is suitable for a direct beneficial use or a controlled use
33 that would not otherwise occur and is therefor considered a
34 valuable resource. ~~Recycled water includes recycled water as~~
35 ~~defined in Section 18005 of the Water Code.~~

36 (o) “Citizen or domiciliary” of the state includes a foreign
37 corporation having substantial business contacts in the state or
38 which is subject to service of process in this state.

39 (p) (1) “Hazardous substance” means either of the following:

1 (A) For discharge to surface waters, any substance determined
2 to be a hazardous substance pursuant to Section 311(b)(2) of the
3 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

4 (B) For discharge to groundwater, any substance listed as a
5 hazardous waste or hazardous material pursuant to Section 25140
6 of the Health and Safety Code, without regard to whether the
7 substance is intended to be used, reused, or discarded, except that
8 “hazardous substance” does not include any substance excluded
9 from Section 311(b)(2) of the Federal Water Pollution Control Act
10 because it is within the scope of Section 311(a)(1) of that act.

11 (2) “Hazardous substance” does not include any of the
12 following:

13 (A) Nontoxic, nonflammable, and noncorrosive stormwater
14 runoff drained from underground vaults, chambers, or manholes
15 into gutters or storm sewers.

16 (B) Any pesticide which is applied for agricultural purposes or
17 is applied in accordance with a cooperative agreement authorized
18 by Section 116180 of the Health and Safety Code, and is not
19 discharged accidentally or for purposes of disposal, the application
20 of which is in compliance with all applicable state and federal laws
21 and regulations.

22 (C) Any discharge to surface water of a quantity less than a
23 reportable quantity as determined by regulations issued pursuant
24 to Section 311(b)(4) of the Federal Water Pollution Control Act.

25 (D) Any discharge to land which results, or probably will result,
26 in a discharge to groundwater if the amount of the discharge to
27 land is less than a reportable quantity, as determined by regulations
28 adopted pursuant to Section 13271, for substances listed as
29 hazardous pursuant to Section 25140 of the Health and Safety
30 Code. No discharge shall be deemed a discharge of a reportable
31 quantity until regulations set a reportable quantity for the substance
32 discharged.

33 (q) (1) “Mining waste” means all solid, semisolid, and liquid
34 waste materials from the extraction, beneficiation, and processing
35 of ores and minerals. Mining waste includes, but is not limited to,
36 soil, waste rock, and overburden, as defined in Section 2732 of
37 the Public Resources Code, and tailings, slag, and other processed
38 waste materials, including cementitious materials that are managed
39 at the cement manufacturing facility where the materials were
40 generated.

1 (2) For the purposes of this subdivision, “cementitious material”
2 means cement, cement kiln dust, clinker, and clinker dust.

3 *SEC. 17. Section 13167.5 of the Water Code is amended to*
4 *read:*

5 13167.5. (a) The state board or the regional board, as
6 applicable, shall provide notice and a period of at least 30 days for
7 public comment prior to the adoption of any of the following:

8 (1) Waste discharge requirements prescribed pursuant to
9 Sections 13263 or 13377.

10 ~~(2) Water reclamation requirements prescribed pursuant to~~
11 ~~Section 13523.~~

12 ~~(3)~~

13 (2) An order issued pursuant to Section 13320.

14 ~~(4)~~

15 (3) A time schedule order adopted pursuant to Section 13300
16 that sets forth a schedule of compliance and required actions
17 relating to waste discharge requirements prescribed pursuant to
18 Section 13263 or 13377.

19 (b) The notification required by subdivision (a) may be provided
20 by mailing a draft of the waste discharge requirements, ~~water~~
21 ~~reclamation requirements~~, time schedule order, or order issued
22 pursuant to Section 13320 to each person who has requested notice
23 of the specific item, or by posting a draft of the respective
24 requirements or order on the official Internet site maintained by
25 the state board or regional board, and providing notice of that
26 posting by electronic mail to each person who has requested notice.

27 (c) This section does not require the state board or the regional
28 board to provide more than one notice or more than one public
29 comment period prior to the adoption of waste discharge
30 requirements, ~~water reclamation requirements~~, a time schedule
31 order, or an order issued pursuant to Section 13320.

32 ~~SEC. 12.~~

33 *SEC. 18. Section 13260 of the Water Code is amended to read:*

34 13260. (a) Each of the following persons shall file with the
35 appropriate regional board a report of the discharge, containing
36 the information that may be required by the regional board:

37 (1) A person discharging waste, or proposing to discharge waste,
38 within any region that could affect the quality of the waters of the
39 state, other than into a community sewer system.

1 (2) A person who is a citizen, domiciliary, or political agency
2 or entity of this state discharging waste, or proposing to discharge
3 waste, outside the boundaries of the state in a manner that could
4 affect the quality of the waters of the state within any region.

5 (3) A person operating, or proposing to construct, an injection
6 well.

7 (b) No report of waste discharge need be filed pursuant to
8 subdivision (a) if the requirement is waived pursuant to Section
9 13269.

10 (c) Each person subject to subdivision (a) shall file with the
11 appropriate regional board a report of waste discharge relative to
12 any material change or proposed change in the character, location,
13 or volume of the discharge.

14 (d) (1) (A) Each person who is subject to subdivision (a) or
15 (c) shall submit an annual fee according to a fee schedule
16 established by the state board.

17 (B) The total amount of annual fees collected pursuant to this
18 section shall equal that amount necessary to recover costs incurred
19 in connection with the issuance, administration, reviewing,
20 monitoring, and enforcement of waste discharge requirements and
21 waivers of waste discharge requirements.

22 (C) Recoverable costs may include, but are not limited to, costs
23 incurred in reviewing waste discharge reports, prescribing terms
24 of waste discharge requirements and monitoring requirements,
25 enforcing and evaluating compliance with waste discharge
26 requirements and waiver requirements, conducting surface water
27 and groundwater monitoring and modeling, analyzing laboratory
28 samples, adopting, reviewing, and revising water quality control
29 plans and state policies for water quality control, and reviewing
30 documents prepared for the purpose of regulating the discharge of
31 waste, and administrative costs incurred in connection with
32 carrying out these actions.

33 (D) In establishing the amount of a fee that may be imposed on
34 a confined animal feeding and holding operation pursuant to this
35 section, including, but not limited to, a dairy farm, the state board
36 shall consider all of the following factors:

37 (i) The size of the operation.

38 (ii) Whether the operation has been issued a permit to operate
39 pursuant to Section 1342 of Title 33 of the United States Code.

- 1 (iii) Any applicable waste discharge requirement or conditional
2 waiver of a waste discharge requirement.
- 3 (iv) The type and amount of discharge from the operation.
- 4 (v) The pricing mechanism of the commodity produced.
- 5 (vi) Any compliance costs borne by the operation pursuant to
6 state and federal water quality regulations.
- 7 (vii) Whether the operation participates in a quality assurance
8 program certified by a regional water quality control board, the
9 state board, or a federal water quality control agency.
- 10 (2) (A) Subject to subparagraph (B), the fees collected pursuant
11 to this section shall be deposited in the Waste Discharge Permit
12 Fund, which is hereby created. The money in the fund is available
13 for expenditure by the state board, upon appropriation by the
14 Legislature, solely for the purposes of carrying out this division.
- 15 (B) (i) Notwithstanding subparagraph (A), the fees collected
16 pursuant to this section from stormwater dischargers that are
17 subject to a general industrial or construction stormwater permit
18 under the national pollutant discharge elimination system (NPDES)
19 shall be separately accounted for in the Waste Discharge Permit
20 Fund.
- 21 (ii) Not less than 50 percent of the money in the Waste
22 Discharge Permit Fund that is separately accounted for pursuant
23 to clause (i) is available, upon appropriation by the Legislature,
24 for expenditure by the regional board with jurisdiction over the
25 permitted industry or construction site that generated the fee to
26 carry out stormwater programs in the region.
- 27 (iii) Each regional board that receives money pursuant to clause
28 (ii) shall spend not less than 50 percent of that money solely on
29 stormwater inspection and regulatory compliance issues associated
30 with industrial and construction stormwater programs.
- 31 (3) A person who would be required to pay the annual fee
32 prescribed by paragraph (1) for waste discharge requirements
33 applicable to discharges of solid waste, as defined in Section 40191
34 of the Public Resources Code, at a waste management unit that is
35 also regulated under Division 30 (commencing with Section 40000)
36 of the Public Resources Code, shall be entitled to a waiver of the
37 annual fee for the discharge of solid waste at the waste management
38 unit imposed by paragraph (1) upon verification by the state board
39 of payment of the fee imposed by Section 48000 of the Public
40 Resources Code, and provided that the fee established pursuant to

1 Section 48000 of the Public Resources Code generates revenues
2 sufficient to fund the programs specified in Section 48004 of the
3 Public Resources Code and the amount appropriated by the
4 Legislature for those purposes is not reduced.

5 (e) Each person that discharges waste in a manner regulated by
6 this section shall pay an annual fee to the state board. The state
7 board shall establish, by regulation, a timetable for the payment
8 of the annual fee. If the state board or a regional board determines
9 that the discharge will not affect, or have the potential to affect,
10 the quality of the waters of the state, all or part of the annual fee
11 shall be refunded.

12 (f) (1) The state board shall adopt, by emergency regulations,
13 a schedule of fees authorized under subdivision (d). The total
14 revenue collected each year through annual fees shall be set at an
15 amount equal to the revenue levels set forth in the Budget Act for
16 this activity. The state board shall automatically adjust the annual
17 fees each fiscal year to conform with the revenue levels set forth
18 in the Budget Act for this activity. If the state board determines
19 that the revenue collected during the preceding year was greater
20 than, or less than, the revenue levels set forth in the Budget Act,
21 the state board may further adjust the annual fees to compensate
22 for the over and under collection of revenue.

23 (2) The emergency regulations adopted pursuant to this
24 subdivision, any amendment thereto, or subsequent adjustments
25 to the annual fees, shall be adopted by the state board in accordance
26 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
27 Division 3 of Title 2 of the Government Code. The adoption of
28 these regulations is an emergency and shall be considered by the
29 Office of Administrative Law as necessary for the immediate
30 preservation of the public peace, health, safety, and general welfare.
31 Notwithstanding Chapter 3.5 (commencing with Section 11340)
32 of Part 1 of Division 3 of Title 2 of the Government Code, any
33 emergency regulations adopted by the state board, or adjustments
34 to the annual fees made by the state board pursuant to this section,
35 shall not be subject to review by the Office of Administrative Law
36 and shall remain in effect until revised by the state board.

37 (g) The state board shall adopt regulations setting forth
38 reasonable time limits within which the regional board shall
39 determine the adequacy of a report of waste discharge submitted
40 under this section.

1 (h) Each report submitted under this section shall be sworn to,
2 or submitted under penalty of perjury.

3 (i) The regulations adopted by the state board pursuant to
4 subdivision (f) shall include a provision that annual fees shall not
5 be imposed on those who pay fees under the national pollutant
6 discharge elimination system until the time when those fees are
7 again due, at which time the fees shall become due on an annual
8 basis.

9 (j) A person operating or proposing to construct an oil, gas, or
10 geothermal injection well subject to paragraph (3) of subdivision
11 (a) shall not be required to pay a fee pursuant to subdivision (d) if
12 the injection well is regulated by the Division of Oil and Gas of
13 the Department of Conservation, in lieu of the appropriate
14 California regional water quality control board, pursuant to the
15 memorandum of understanding, entered into between the state
16 board and the Department of Conservation on May 19, 1988. This
17 subdivision shall remain operative until the memorandum of
18 understanding is revoked by the state board or the Department of
19 Conservation.

20 (k) In addition to the report required by subdivision (a), before
21 a person discharges mining waste, the person shall first submit
22 both of the following to the regional board:

23 (1) A report on the physical and chemical characteristics of the
24 waste that could affect its potential to cause pollution or
25 contamination. The report shall include the results of all tests
26 required by regulations adopted by the board, any test adopted by
27 the Department of Toxic Substances Control pursuant to Section
28 25141 of the Health and Safety Code for extractable, persistent,
29 and bioaccumulative toxic substances in a waste or other material,
30 and any other tests that the state board or regional board may
31 require, including, but not limited to, tests needed to determine
32 the acid-generating potential of the mining waste or the extent to
33 which hazardous substances may persist in the waste after disposal.

34 (2) A report that evaluates the potential of the discharge of the
35 mining waste to produce, over the long term, acid mine drainage,
36 the discharge or leaching of heavy metals, or the release of other
37 hazardous substances.

38 ~~SEC. 13.~~

39 *SEC. 19.* Section 13263 of the Water Code is amended to read:

1 13263. (a) The regional board, after any necessary hearing,
2 shall prescribe requirements as to the nature of any proposed
3 discharge, existing discharge, or material change in an existing
4 discharge, except discharges into a community sewer system, with
5 relation to the conditions existing in the disposal area or receiving
6 waters upon, or into which, the discharge is made or proposed.
7 The requirements shall implement any relevant water quality
8 control plans that have been adopted, and shall take into
9 consideration the beneficial uses to be protected, the water quality
10 objectives reasonably required for that purpose, other waste
11 discharges, the need to prevent nuisance, and the provisions of
12 Section 13241.

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

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

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

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

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

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

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

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

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

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

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

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

6 (j) *The use of recycled water, as defined in this division,*
7 *permitted prior to December 31, 2012, utilizing water recycling*
8 *requirements, master recycling permits, or waste discharge*
9 *requirements issued pursuant to this division shall be permitted*
10 *in accordance with Division 8 (commencing with Section 18000)*
11 *or Chapter 20 (commencing with Section 26300) of Division 20*
12 *of the Health and Safety Code, as applicable, upon expiration or*
13 *modification of the water recycling requirements, master recycling*
14 *permits, or waste discharge requirements, or upon agreement by*
15 *the appropriate regional board and permitted entity, whichever*
16 *is sooner.*

17 (k) *The use of recycled water, as defined in this division,*
18 *permitted prior to December 31, 2012, utilizing water recycling*
19 *requirements, master recycling permits, or waste discharge*
20 *requirements issued pursuant to this division shall be complied*
21 *with, administered, and enforced in accordance with those water*
22 *recycling requirements, master recycling permits, or waste*
23 *discharge requirements issued pursuant to this division.*

24 ~~SEC. 14.~~

25 SEC. 20. Section 13271 of the Water Code is amended to read:

26 13271. (a) (1) Except as provided by subdivision (b), any
27 person who, without regard to intent or negligence, causes or
28 permits any hazardous substance or sewage to be discharged in or
29 on any waters of the state, or discharged or deposited where it is,
30 or probably will be, discharged in or on any waters of the state,
31 shall, as soon as (A) that person has knowledge of the discharge,
32 (B) notification is possible, and (C) notification can be provided
33 without substantially impeding cleanup or other emergency
34 measures, immediately notify the California Emergency
35 Management Agency of the discharge in accordance with the spill
36 reporting provision of the state toxic disaster contingency plan
37 adopted pursuant to Article 3.7 (commencing with Section 8574.16)
38 of Chapter 7 of Division 1 of Title 2 of the Government Code.

39 (2) The California Emergency Management Agency shall
40 immediately notify the appropriate regional board, the local health

1 officer, and the director of environmental health of the discharge.
2 The regional board shall notify the state board as appropriate.

3 (3) Upon receiving notification of a discharge pursuant to this
4 section, the local health officer and the director of environmental
5 health shall immediately determine whether notification of the
6 public is required to safeguard public health and safety. If so, the
7 local health officer and the director of environmental health shall
8 immediately notify the public of the discharge by posting notices
9 or other appropriate means. The notification shall describe
10 measures to be taken by the public to protect the public health.

11 (b) The notification required by this section shall not apply to
12 a discharge in compliance with waste discharge requirements or
13 other provisions of this division.

14 (c) Any person who fails to provide the notice required by this
15 section is guilty of a misdemeanor and shall be punished by a fine
16 of not more than twenty thousand dollars (\$20,000) or
17 imprisonment in a county jail for not more than one year, or both.
18 Except where a discharge to the waters of this state would have
19 occurred but for cleanup or emergency response by a public agency,
20 this subdivision shall not apply to any discharge to land which
21 does not result in a discharge to the waters of this state.

22 (d) Notification received pursuant to this section or information
23 obtained by use of that notification shall not be used against any
24 person providing the notification in any criminal case, except in
25 a prosecution for perjury or giving a false statement.

26 (e) For substances listed as hazardous wastes or hazardous
27 material pursuant to Section 25140 of the Health and Safety Code,
28 the state board, in consultation with the Department of Toxic
29 Substances Control, shall by regulation establish reportable
30 quantities for purposes of this section. The regulations shall be
31 based on what quantities should be reported because they may
32 pose a risk to public health or the environment if discharged to
33 groundwater or surface water. Regulations need not set reportable
34 quantities on all listed substances at the same time. Regulations
35 establishing reportable quantities shall not supersede waste
36 discharge requirements or water quality objectives adopted
37 pursuant to this division, and shall not supersede or affect in any
38 way the list, criteria, and guidelines for the identification of
39 hazardous wastes and extremely hazardous wastes adopted by the
40 Department of Toxic Substances Control pursuant to Chapter 6.5

1 (commencing with Section 25100) of Division 20 of the Health
2 and Safety Code. The regulations of the Environmental Protection
3 Agency for reportable quantities of hazardous substances for
4 purposes of the federal Comprehensive Environmental Response,
5 Compensation, and Liability Act of 1980, as amended (42 U.S.C.
6 Sec. 9601 et seq.) shall be in effect for purposes of the enforcement
7 of this section until the time that the regulations required by this
8 subdivision are adopted.

9 (f) (1) The state board shall adopt regulations establishing
10 reportable quantities of sewage for purposes of this section. The
11 regulations shall be based on the quantities that should be reported
12 because they may pose a risk to public health or the environment
13 if discharged to groundwater or surface water. Regulations
14 establishing reportable quantities shall not supersede waste
15 discharge requirements or water quality objectives adopted
16 pursuant to this division. For purposes of this section, “sewage”
17 means the effluent of a municipal wastewater treatment plant or a
18 private utility wastewater treatment plant, as those terms are
19 defined in Section 13625, except that sewage does not include
20 recycled water, as defined in Section 18005.

21 (2) A collection system owner or operator, as defined in
22 paragraph (1) of subdivision (a) of Section 13193, in addition to
23 the reporting requirements set forth in this section, shall submit a
24 report pursuant to subdivision (c) of Section 13193.

25 (g) Except as otherwise provided in this section and Section
26 8589.7 of the Government Code, a notification made pursuant to
27 this section shall satisfy any immediate notification requirement
28 contained in any permit issued by a permitting agency. When
29 notifying the California Emergency Management Agency, the
30 person shall include all of the notification information required in
31 the permit.

32 (h) For the purposes of this section, the reportable quantity for
33 perchlorate shall be 10 pounds or more by discharge to the
34 receiving waters, unless a more restrictive reporting standard for
35 a particular body of water is adopted pursuant to subdivision (e).

36 (i) Notification under this section does not nullify a person’s
37 responsibility to notify the local health officer or the director of
38 environmental health pursuant to Section 5411.5 of the Health and
39 Safety Code.

1 ~~SEC. 15.~~
2 *SEC. 21.* Chapter 7 (commencing with Section 13500) of
3 Division 7 of the Water Code is repealed.

4 ~~SEC. 16.~~
5 *SEC. 22.* Chapter 7 (commencing with Section 13500) is added
6 to Division 7 of the Water Code, to read:

7
8 CHAPTER 7. WASTE WELLS
9

10 13500. (a) A person shall not construct, maintain, or use any
11 waste well extending to or into a subterranean water-bearing
12 stratum that is used or intended to be used as, or is suitable for, a
13 source of water supply for domestic purposes.

14 (b) As used in this chapter, “waste well” includes any hole dug
15 or drilled into the ground, used, or intended to be used for the
16 disposal of waste.

17 ~~SEC. 17.~~
18 *SEC. 23.* Chapter 7.3 (commencing with Section 13560) of
19 Division 7 of the Water Code is repealed.

20 ~~SEC. 18.~~
21 *SEC. 24.* Chapter 7.5 (commencing with Section 13575) of
22 Division 7 of the Water Code is repealed.

23 ~~SEC. 19.~~
24 *SEC. 25.* Division 8 (commencing with Section 18000) is added
25 to the Water Code, to read:

26
27 DIVISION 8. WATER RECYCLING
28

29 CHAPTER 1. GENERAL
30

31 Article 1. Short Title
32

33 18000. This division shall be known and may be cited as the
34 Water Recycling Act of 2012.

35
36 Article 2. Findings and Declarations
37

38 18001. The Legislature hereby finds and declares all of the
39 following:

1 (a) The State of California is subject to periodic drought
2 conditions, and the development of traditional water resources in
3 California has not kept pace with the state's growing population.

4 (b) The people of the state have a primary interest in the
5 development of new basic water supplies, as that term is used in
6 Chapter 5 (commencing with Section 12880) of Part 6 of Division
7 6, including maximizing recycled water use to supplement existing
8 water supplies and to minimize the impacts of growing demand
9 for new water on sensitive natural water bodies. As such, the state
10 is to encourage development of water recycling facilities so that
11 recycled water may be made available to help meet the water
12 requirements of the state.

13 (c) Recycled water has been ~~beneficially used in the state since~~
14 ~~19__~~, and proven to be a safe, cost-effective, and reliable method
15 of helping to meet California's water supply needs.

16 (d) A substantial portion of the future water requirements of
17 this state may be economically met by the beneficial use of
18 recycled water. Recycled water is a key and necessary component
19 for California's long-term reliable water supply, and complements
20 demand management, improvements in efficiency, and supply
21 augmentation strategies.

22 (e) The benefits of using recycled water include, but are not
23 limited to, a reduced demand for water in the Sacramento-San
24 Joaquin Delta that is otherwise needed to maintain water quality
25 *and support regional economies of the state*; reduced discharges
26 of waste into inland surface waters and the ocean; the enhancement
27 and protection of groundwater basins, recreation, fisheries,
28 wetlands, and riparian areas; a reduction in greenhouse gas
29 emissions; the protection of investments in agriculture, greenbelts,
30 and recreation; the provision of jobs; and enhancement of the
31 state's economy through the development and implementation of
32 recycled water projects.

33 (f) In accordance with Section 2 of Article X of the California
34 Constitution, in order to put the water resources of the state to
35 beneficial use to the fullest extent of which they are capable, the
36 use of potable water or raw water from a natural stream or water
37 course in this state is unreasonable and a waste of such water where
38 recycled water is reasonably available in accordance with this
39 division for the beneficial use to be served. Any use of recycled
40 water in lieu of water suitable for potable domestic use is, to the

1 extent of the recycled water so used, deemed to constitute a
2 reasonable beneficial use of water, and the use of recycled water
3 shall not cause any loss or diminution of any existing water right.

4 ~~(g) The state board is charged with permitting the diversion of~~
5 ~~surface water for beneficial use, pursuant to Part 2 (commencing~~
6 ~~with Section 1200) of Division 2. This authority is separate and~~
7 ~~distinct from the state board's authority to regulate water quality~~
8 ~~pursuant to Division 7 (commencing with Section 13000).~~

9 ~~(h)~~

10 (g) The ~~department~~ *State Department of Public Health*
11 establishes uniform water recycling criteria for each varying type
12 of use of recycled water where the use involves the protection of
13 public health.

14 ~~(i)~~

15 (h) Recycled water can be produced using different levels of
16 treatment, as necessary and appropriate for the beneficial use to
17 be made, and for the protection of public health and the
18 environment.

19 ~~(j)~~

20 (i) The use of recycled water in accordance with this division
21 is presumed not to have adverse impacts on public health, the
22 environment, or on the protection of beneficial uses, and to meet
23 applicable water quality objectives in the basin plans adopted by
24 the state board and regional boards.

25 ~~(k)~~

26 (j) The impoundment of recycled water can augment surface
27 storage capability, thereby increasing the quantity of recycled
28 water that can be applied to beneficial uses, and can also reduce
29 the unnecessary use of potable water to fill impoundments.

30 ~~(l)~~

31 (k) It is the intent of the Legislature that the provisions of this
32 division shall be construed to encourage the development by local
33 public agencies and water suppliers of recycled water and its
34 potential for use as a water source consistent with the goals of
35 Chapter 3 (commencing with Section 10608) of Part 2.55 of
36 Division 6.

37 ~~(m)~~

38 (l) It is the intent of the Legislature to establish a clear statutory
39 framework for the permitting and regulation of recycled water.
40 This division shall fully cover the requirements, permitting, and

1 enforcement applicable to recycled water other than advanced
 2 treated purified water. Advanced treated purified water, as defined
 3 in this division, shall be permitted as a source of supply in
 4 accordance with ~~Section _____~~ Sections 26302 and 26303 of the
 5 Health and Safety Code. The

6 (m) The recycling of water, the supply, storage, or use of
 7 recycled water in accordance with the requirements of this division
 8 shall not be considered a discharge of waste or sewage for purposes
 9 of Section 13264 or 13271, or a nuisance, except as provided in
 10 this division.

11
 12 Article 3. Definitions

13
 14 18005. As used in this division:

15 (a) ~~“Recycled water” means _____.~~

16 (b) _____.

17 (a) *“Advanced treated purified water” means water of*
 18 *wastewater origin treated with a treatment method at least as*
 19 *effective as membrane filtration, reverse osmosis, advanced*
 20 *oxidation, or disinfection and that includes engineered reliability*
 21 *features as approved by the State Department of Public Health.*

22 (b) *“Advanced treated purified water recharge project” means*
 23 *a raw water augmentation project to recharge groundwater using*
 24 *surface application or direct injection of advanced treated purified*
 25 *water.*

26 (c) *“Customer” means a person or entity that purchases water*
 27 *from a retail water supplier.*

28 (d) *“Designated recycled water use area” means an area within*
 29 *the boundaries of the local agency that can, or may, in the future*
 30 *be served with recycled water in lieu of potable or raw water,*
 31 *including groundwater, and is so designated by the local agency.*

32 (e) *“Drinking water criteria” means the standards promulgated*
 33 *by the State Department of Public Health specifying the maximum*
 34 *levels of constituents in soil aquifer treated purified water and*
 35 *advanced treated purified water used for potable reuse together*
 36 *with means for reliably treating the recycled water, which, in the*
 37 *judgment of the State Department of Public Health, will result in*
 38 *drinking water that is safe for the uses to be made.*

39 (f) *“Entity responsible for groundwater replenishment” means*
 40 *any person or entity authorized by statute or court order to manage*

1 a groundwater basin and acquire water for groundwater
2 replenishment.

3 (g) “Groundwater recharge” means the augmentation of
4 groundwater, by natural or artificial means, with surface water
5 or recycled water.

6 (h) “Impoundment” means a facility in which recycled water
7 is stored or used for aesthetic enjoyment or landscape irrigation,
8 or which otherwise serves a similar function, and is not intended
9 to be used as part of a potable water supply.

10 (i) “Incidental runoff” means unintended minor amounts of
11 runoff from recycled water use areas, such as unintended, minimal
12 overspray from sprinklers that escapes the designated recycled
13 water use area.

14 (j) “Land use agency” means any city, county, or city and
15 county.

16 (k) “Local public agency” means a city, county, city and county,
17 district, or any other political subdivision of the state.

18 (l) “Nonpotable reuse” means the planned treatment of
19 wastewater to a quality suitable for nonpotable purposes.

20 (m) “Person” includes any individual, corporation, partnership,
21 association, city, county, district, the state, and the United States,
22 to the extent authorized by federal law.

23 (n) “Potable reuse” means the planned treatment of wastewater
24 through multiple barriers, which may include engineered treatment
25 processes or natural treatment barriers, to reliably produce a
26 potable water supply.

27 (o) “Potable water” means water that is satisfactory for
28 drinking, culinary, and domestic purposes and meets the
29 requirements of the health authority having jurisdiction.

30 (p) “Raw water” means surface water or groundwater in its
31 naturally occurring state, prior to treatment.

32 (q) “Raw water augmentation” means the planned introduction
33 of recycled water into any raw water or raw water conveyance
34 facility, treatment facility, or storage reservoir.

35 (r) (1) “Recycled water” means water produced by the
36 treatment of municipal wastewater in accordance with applicable
37 requirements, that is suitable for a direct beneficial use or a
38 controlled use that would not otherwise occur and is therefore
39 considered a valuable resource. For purposes of this division,
40 recycled water includes the following:

- 1 (A) “Soil aquifer treated purified water” and “advanced treated
2 purified water,” as defined in this section.
- 3 (B) Wastewater treated as “disinfected tertiary recycled water,”
4 as defined or described by the State Department of Public Health.
- 5 (C) Wastewater receiving advanced treatment beyond disinfected
6 tertiary recycled water but that is not advanced treated or soil
7 aquifer treated purified water as defined in this section.
- 8 (2) “Recycled water” as defined in this section shall not be
9 considered “waste” as defined in subdivision (d) of Section 13050,
10 “waste” as defined in subdivision (a) of Section 5410 of the Health
11 and Safety Code, or “sewage” or the “effluent of treated sewage
12 or other waste” as used in Section 5411 of the Health and Safety
13 Code.
- 14 (s) “Recycled water groundwater recharge project” means
15 groundwater recharge utilizing surface application of recycled
16 water that is not advanced treated purified water.
- 17 (t) “Recycled water producer” means any local public or private
18 entity that produces recycled water in accordance with this
19 division.
- 20 (u) “Recycled water wholesaler” means any local public entity
21 that distributes recycled water to retail water suppliers and that
22 has constructed, or is constructing, a recycled water distribution
23 system.
- 24 (v) “Regional board” means any California regional water
25 quality control board for a region, as specified in Section 13200.
- 26 (w) “Retail water supplier” means any local entity, including
27 a public agency, city, county, or private water company that
28 provides retail water service.
- 29 (x) “Soil aquifer treated purified water” means wastewater
30 treated as “disinfected tertiary recycled water,” as defined or
31 described by the State Department of Public Health, that has also
32 undergone treatment in unsaturated and saturated soil conditions.
- 33 (y) “State board” means the State Water Resources Control
34 Board.
- 35 (z) “Storm-induced overflow” means the displacement of water
36 from a nonpotable impoundment containing recycled water by the
37 inflow of rainwater or stormwater runoff. Overflow is not
38 considered storm induced if it is due to intentional release or due
39 to failure to cease the placement of recycled water into the

1 *impoundment during a storm or while inflow from a storm is*
2 *continuing.*

3 *(aa) "Structure" or "structures" means commercial, retail,*
4 *and office buildings, theaters, auditoriums, condominium projects,*
5 *schools, hotels, apartments, barracks, dormitories, jails, prisons*
6 *and reformatories, and other structures as determined by the State*
7 *Department of Public Health.*

8 *(ab) "Treated water augmentation" means the planned*
9 *introduction of recycled water into potable water.*

10 *(ac) "Uniform water recycling criteria" or "recycling criteria"*
11 *means the standards promulgated by the State Department of*
12 *Public Health for levels of constituents in recycled water, together*
13 *with means for reliably treating the recycled water, which will*
14 *result in recycled water that is safe for the uses to be made.*

15 *(ad) "Wastewater" means water that has been used for*
16 *domestic, commercial, industrial, or other purposes and discarded*
17 *through a pipe or other conveyance to a publicly owned treatment*
18 *works.*

19 *(ae) "Waters of the state" means any surface water or*
20 *groundwater, including saline waters, within the boundaries of*
21 *the state.*

22

23 CHAPTER 2. RECYCLING GOALS

24

25 18010. *(a) This division establishes a statewide goal to recycle*
26 *a total of 1.5 million acre-feet of water per year by the year 2020*
27 *and 2.5 million acre-feet of water per year by the year 2030. The*

28 *(b) The state board and regional boards, the ~~department~~ State*
29 *Department of Public Health, the Public Utilities Commission,*
30 *the ~~Department of Water Resources~~ department, and other state*
31 *agencies shall exercise the authority and discretion granted to them*
32 *by the Legislature to encourage the use of recycled water and meet*
33 *the goals of this division established in subdivision (a).*

34 *(c) The use of recycled water in accordance with this division*
35 *or Chapter 20 (commencing with Section 26300) of Division 20*
36 *of the Health and Safety Code, and the use of recycled water as*
37 *defined in subdivision (n) of Section 13050, shall count toward*
38 *meeting the water recycling goals established in subdivision (a).*

CHAPTER 3. GENERAL PROVISIONS

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18015. (a) An action authorized pursuant to this division shall be consistent, to the extent applicable, with the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.).

(b) Nothing in this division is intended to alter or affect any existing water rights.

18016. The state board and the State Department of Public Health may each adopt regulations to carry out their powers and duties under this division. Any regulations adopted shall be consistent with this division, including achievement of the water recycling goals set forth in Section 18010.

18017. The State Department of Public Health may accept public or private funds from any source, and may expend these funds, upon appropriation by the Legislature, for the purposes of this division.

CHAPTER 3-4. USES OF RECYCLED WATER

Article 1. Uniform Water Recycling Criteria for Nonpotable Uses

18020. (a) ~~The department~~ State Department of Public Health shall establish and maintain uniform water recycling criteria for each varying type of nonpotable use of recycled water where the use ~~involves~~ requires protection of public health.

(b) Adoption of uniform water recycling criteria by the State Department of Public Health is subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 2. ~~Uniform~~ Drinking Water Criteria for Potable Uses

18030. The Legislature finds and declares the following:

~~The~~

(a) The use of recycled water for potable reuse is critical to achieving the state’s water recycling goals established in Section 18010 for increased use of recycled water in the state.

1 (b) California is a national leader in potable reuse. Potable
2 reuse projects have been permitted in California and have
3 delivered safe water to customers since 1962, using a combination
4 of treatment processes and natural barriers. Ongoing
5 advancements in treatment technologies have increased the
6 opportunities to develop potable reuse projects that have been
7 proven to reliably deliver safe water to customers.

8 (c) Treatment processes or natural barriers, such as soil aquifer
9 treatment, selected for individual potable reuse projects can purify
10 water. The particular process for each reuse project should be
11 selected based on local hydrological and geological conditions.

12 (d) Achievement of the state's water recycling goals depends
13 on the timely development of appropriate criteria for potable reuse
14 by the State Department of Public Health.

15 (e) This article is not intended to delay, invalidate, or reverse
16 any study or project, or development of regulations by the State
17 Department of Public Health, the state board, or the regional
18 boards regarding the use of recycled water for potable reuse.

19 (f) This article shall not be construed to delay, invalidate, or
20 reverse the State Department of Public Health's ongoing review
21 of projects consistent with Section 116551 of the Health and Safety
22 Code.

23 18031. (a) On or before December 31, 2013, the State
24 Department of Public Health shall adopt drinking water criteria
25 for groundwater recharge projects utilizing recycled water.

26 (b) (1) On or before December 31, 2016, the State Department
27 of Public Health shall develop and adopt drinking water criteria
28 for the use of advanced treated purified water for raw water
29 augmentation projects not subject to the criteria established
30 pursuant to subdivision (a).

31 (2) Prior to adopting drinking water criteria for the use of
32 advanced treated purified water for raw water augmentation
33 pursuant to paragraph (1), the State Department of Public Health
34 shall submit the proposed criteria to the expert panel convened
35 pursuant to subdivision (a) of Section 18035. The expert panel
36 shall review the proposed criteria and shall make a finding as to
37 whether, in its expert opinion, the proposed criteria would
38 adequately protect public health.

39 (3) The State Department of Public Health shall not adopt
40 drinking water criteria for the use of advanced treated purified

1 *water for raw water augmentation pursuant to paragraph (1)*
2 *unless and until the expert panel adopts a finding that the proposed*
3 *criteria would adequately protect public health.*

4 *(c) Adoption of drinking water criteria by the State Department*
5 *of Public Health is subject to the requirements of Chapter 3.5*
6 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
7 *2 of the Government Code.*

8 18032. (a) (1) ~~The department~~ *State Department of Public*
9 *Health shall investigate and report to the Legislature on the*
10 *feasibility of developing ~~uniform drinking water~~ criteria for ~~direct~~*
11 *potable reuse involving treated water augmentation.*

12 (2) ~~The department~~ *State Department of Public Health shall*
13 *complete a public review draft of its report by June 30, 2016. The*
14 *department State Department of Public Health shall provide the*
15 *public not less than 45 days to review and comment on the public*
16 *review draft.*

17 (3) ~~The department~~ *State Department of Public Health shall*
18 *provide a final report to the Legislature by December 31, 2016.*
19 *The department State Department of Public Health shall make the*
20 *final report available to the public.*

21 (b) In conducting the investigation pursuant to subdivision (a),
22 ~~the department~~ *State Department of Public Health shall examine*
23 *all of the following:*

24 (1) The availability and reliability of recycled water treatment
25 technologies necessary to ensure the protection of public health.

26 (2) Multiple barriers and sequential treatment processes that
27 may be appropriate at wastewater and water treatment facilities.

28 (3) Available information on health effects.

29 (4) Mechanisms that should be employed to protect the public
30 health if problems are found in recycled water that is being served
31 to the public as a potable water supply, including, but not limited
32 to, the failure of treatment systems at the wastewater or water
33 treatment facility.

34 (5) Monitoring needed to ensure protection of public health,
35 including, but not limited to, the identification of appropriate
36 indicator and surrogate constituents.

37 (6) Any other scientific or technical issues that ~~the department~~
38 *State Department of Public Health* determines to be necessary,
39 including, but not limited to, the need for additional research.

1 (c) (1) Notwithstanding Section 10231.5 of the Government
2 Code, the requirement for submitting a report imposed under
3 paragraph (3) of subdivision (a) is inoperative on December 31,
4 2020.

5 (2) A report to be submitted pursuant to paragraph (3) of
6 subdivision (a) shall be submitted in compliance with Section 9795
7 of the Government Code.

8 *18033. In performing its investigation of the feasibility of*
9 *developing the drinking water criteria for potable reuse involving*
10 *treated water augmentation, the State Department of Public Health*
11 *shall consider all of the following:*

12 (a) *Recommendations from the expert panel appointed pursuant*
13 *to paragraph (1) of subdivision (a) of Section 18035.*

14 (b) *Recommendations from an advisory group, task force, or*
15 *other group appointed by the State Department of Public Health*
16 *pursuant to paragraph (1) of subdivision (b) of Section 18035.*

17 (c) *Regulations and guidelines for these activities from*
18 *jurisdictions in other states, the federal government, or other*
19 *countries.*

20 (d) *Research regarding constituents of emerging concern, as*
21 *developed pursuant to Section 10 of the Recycled Water Policy*
22 *adopted by state board Resolution No. 2009-0011.*

23 (e) *Results of the investigation undertaken pursuant to Section*
24 *18032.*

25 (f) *Water quality and health risk assessments associated with*
26 *existing potable water supplies subject to discharges from*
27 *municipal wastewater, stormwater, and agricultural runoff.*

28 *18034. (a) The State Department of Public Health, in*
29 *consultation with the state board, shall report to the Legislature*
30 *as part of the annual budget process, in each year through 2016,*
31 *inclusive, on the progress toward developing and adopting drinking*
32 *water criteria for the use of advanced treated purified water for*
33 *raw water augmentation pursuant to paragraph (1) of subdivision*
34 *(b) of Section 18031 and its investigation of the feasibility of*
35 *developing drinking water criteria for treated water augmentation*
36 *pursuant to Section 18032.*

37 (b) (1) *A written report submitted pursuant to subdivision (a)*
38 *shall be submitted in compliance with Section 9795 of the*
39 *Government Code.*

1 (2) Pursuant to Section 10231.5 of the Government Code, this
2 section is repealed on January 1, 2017.

3 18035. (a) (1) The State Department of Public Health shall
4 convene and administer an expert panel for the purposes of
5 advising the State Department of Public Health on public health
6 issues and scientific and technical matters regarding the following:

7 (A) Development of drinking water criteria for raw water
8 augmentation of surface water using advanced treated purified
9 water pursuant to paragraph (1) of subdivision (b) of Section
10 18031.

11 (B) Investigation of the feasibility of developing drinking water
12 criteria for treated water augmentation pursuant to Section 18032.

13 (2) The expert panel shall be comprised, at a minimum, of a
14 toxicologist, an engineer licensed in the state with at least three
15 years' experience in wastewater treatment, an engineer licensed
16 in the state with at least three years' experience in treatment of
17 drinking water supplies and knowledge of drinking water
18 standards, an epidemiologist, a microbiologist, and a chemist.

19 (3) Members of the expert panel may be reimbursed for
20 reasonable and necessary travel expenses.

21 (b) (1) The State Department of Public Health shall appoint
22 an advisory group, task force, or other group, comprised of no
23 fewer than nine representatives of water and wastewater agencies,
24 local public health officers, environmental organizations,
25 environmental justice organizations, public health
26 nongovernmental organizations, and the business community, to
27 advise the State Department of Public Health regarding the
28 development of drinking water criteria pursuant to subdivision (b)
29 of Section 18031 and investigation of the feasibility of developing
30 drinking water criteria pursuant to Section 18032.

31 (2) Environmental, environmental justice, and public health
32 nongovernmental organization representative members of the
33 advisory group, task force, or other group may be reimbursed for
34 reasonable and necessary travel expenses.

35

36 Article 3. Nonpotable Uses of Recycled Water

37

38 18040. (a) The use of potable water for nonpotable uses,
39 including, but not limited to, toilet and urinal flushing in structures,
40 irrigation of cemeteries, golf courses, parks, highway landscaped

1 areas, ~~irrigation of~~ *and* residential landscaping, floor trap priming,
2 cooling towers, air conditioning devices, and other industrial and
3 irrigation uses, is a waste or an unreasonable use of the water
4 within the meaning of Section 2 of Article X of the California
5 Constitution if *the state board or regional board determines, after*
6 *notice to any person or entity who may be ordered to use recycled*
7 *water or to cease using potable water and, if requested by the*
8 *person or entity after a hearing held pursuant to Article 2*
9 *(commencing with Section 648) of Chapter 1.5 of Division 3 of*
10 *Title 23 of the California Code of Regulations, that recycled water*
11 *meeting all of the following conditions is available, as determined*
12 ~~by the state board or regional board, after notice to any person or~~
13 ~~entity who may be ordered to use recycled water or to cease using~~
14 ~~potable water:~~

15 (1) The source of recycled water is of adequate quality for
16 nonpotable uses and is available for these uses. In determining
17 adequate quality, the state board or regional board shall consider
18 all relevant factors, including, but not limited to, food and
19 employee safety, and level and types of specific constituents in
20 the recycled water affecting these uses, on a user-by-user basis.

21 (2) The recycled water may be furnished for nonpotable uses
22 at a reasonable cost to the user. In determining reasonable cost,
23 the state board or regional board shall consider all relevant factors,
24 including, but not limited to, the present and projected costs of
25 supplying, delivering, and treating potable water for these uses
26 and the present and projected costs of supplying ~~and~~, delivering,
27 *and treating* recycled water for these uses, and shall find that the
28 cost of supplying the treated recycled water is comparable to, or
29 less than, the cost of supplying potable water.

30 (3) After concurrence with the ~~department~~ *State Department of*
31 *Public Health*, the use of recycled water from the proposed source
32 will not be detrimental to the public health.

33 (4) The use of recycled water for these uses will not adversely
34 affect downstream water rights, will not degrade water quality,
35 *except in accordance with the applicable water quality control*
36 *plan*, and is determined not to be injurious to plantlife, fish, and
37 wildlife.

38 (b) In making the determination pursuant to subdivision (a), the
39 state board or regional board shall consider the impact of the cost
40 and quality of the nonpotable water on each individual user.

1 (c) The state board or regional board may require a public
2 agency or person subject to this article to furnish information which
3 the state board or regional board determines to be relevant to
4 making the determination required in subdivision (a).

5 18041. (a) ~~The~~ Any state or ~~any~~ local public agency; may
6 require the use of recycled water for irrigation of residential
7 landscaping, if all of the following requirements are met:

8 (1) The use of recycled water does not cause any loss or
9 diminution of any existing water right.

10 (2) The irrigation systems are constructed in accordance with
11 Chapter 3 (commencing with Section 60301) of Division 4 of Title
12 22 of the California Code of Regulations.

13 (b) This section applies to both of the following:

14 (1) Any existing approved use that is retrofitted to receive
15 recycled water.

16 (2) Any new use that is permitted or begins construction after
17 January 1, 2013.

18 18042. (a) ~~The~~ Any state or ~~any~~ local public agency may
19 require the use of recycled water in floor trap priming, cooling
20 towers, and air-conditioning devices, if both of the following
21 requirements are met:

22 (1) The use of recycled water does not cause any loss or
23 diminution of any existing water right.

24 (2) If public exposure to aerosols, mist, or spray may occur,
25 appropriate mist mitigation or mist control is provided, such as
26 the use of mist arrestors or the addition of biocides to the water in
27 accordance with criteria established pursuant to Section ~~_____~~
28 18020.

29 (b) This section applies to both of the following:

30 (1) New industrial facilities and subdivisions for which the
31 building permit is issued on or after January 1, 2013, or, if a
32 building permit is not required, new structures for which
33 construction begins on or after January 1, 2013, for which the
34 ~~department~~ *State Department of Public Health* has approved the
35 use of recycled water.

36 (2) Any structure that is retrofitted to permit the use of recycled
37 water for floor traps, cooling towers, or air-conditioning devices,
38 for which the ~~department~~ *State Department of Public Health* has
39 approved the use of recycled water.

1 18043. (a) ~~The~~Any state or ~~any~~ local public agency may
2 require the use of recycled water for toilet and urinal flushing in
3 structures, except a mental hospital or other facility operated by a
4 public agency for the treatment of persons with mental disorders,
5 if all of the following requirements are met:

6 (1) The use of recycled water does not cause any loss or
7 diminution of any existing water right.

8 (2) The public agency has prepared an engineering report
9 pursuant to Section 60323 of Title 22 of the California Code of
10 Regulations that includes plumbing design, cross-connection
11 control, and monitoring requirements for the use site, which are
12 in compliance with criteria established pursuant to Section ~~_____~~
13 18020.

14 (b) Recycled water may be used in condominiums for toilet and
15 urinal flushing, subject to all of the following additional conditions:

16 (1) For any condominium, the lease or condominium's
17 declaration, as defined in Section 1351 of the Civil Code, shall
18 provide that the laws and regulations governing recycled water
19 apply, shall not permit any exceptions to those laws and
20 regulations, shall incorporate the report described in subdivision
21 (a), and shall contain the following statement:

22
23 “NOTICE OF USE OF RECYCLED WATER

24 This property is approved by the State Department of Public
25 Health for the use of recycled water for toilet and urinal flushing.
26 This water is not potable, is not suitable for indoor purposes other
27 than toilet and urinal flushing purposes, and requires dual
28 plumbing. Alterations and modifications to the plumbing system
29 require a permit and are prohibited without first consulting with
30 the appropriate local building code enforcement agency and your
31 property management company or homeowners' association to
32 ensure that the recycled water is not mixed with the drinking
33 water.”

34
35 (2) That each project will be tested by the recycled water agency
36 or the responsible local agency at least once every four years to
37 ensure that there are no indications of a possible cross connection
38 between the condominium's potable and nonpotable systems.

39 (3) The recycled water agency or the responsible local agency
40 shall maintain records of all tests and ~~annual~~ inspections conducted.

1 Article 4. Exemptions from Environmental Quality Act

2
3 18050. Division 13 (commencing with Section 21000) of the
4 Public Resources Code does not apply to any project that involves
5 only the retrofit of existing plumbing systems to accommodate the
6 use of recycled water.

7
8 Article 5. Special Provisions

9
10 18060. (a) The Legislature hereby finds and declares that
11 certain coastal areas of the state have been using sea water to flush
12 toilets and urinals as a means of conserving potable water; that
13 this practice precludes the beneficial reuse of treated wastewater
14 and has had a deleterious effect on the proper wastewater treatment
15 process, and has led to corrosion of the sea water distribution
16 pipelines and wastewater collection systems; that this situation
17 must be changed; and that the use of recycled water in residential
18 ~~buildings~~ *structures* for toilet and urinal flushing does not pose a
19 threat to public health and safety.

20 (b) Any ~~public agency, including a state agency, city, county,~~
21 ~~city and county, district, or any other political subdivision of the~~
22 ~~state~~ *state or local public agency*, that is providing a separate
23 distribution system for sea water for use in flushing toilets and
24 urinals in residential structures may, by ordinance or regulation,
25 as appropriate, authorize the use of recycled water for the flushing
26 of toilets and urinals in residential structures if the level of
27 treatment and the use of the recycled water meets the criteria set
28 by the ~~department~~ *State Department of Public Health*.

29
30 CHAPTER 4. PLANNING FOR RECYCLED WATER

31
32 Article 1. Installation of Dual Piping for Irrigation

33
34 18100. (a) If a recycled water producer, *wholesaler, or supplier*
35 determines that within 10 years the recycled water producer
36 proposes to provide recycled water for use for state landscape
37 irrigation that meets all of the conditions set forth in Section 18040,
38 the recycled water producer, *wholesaler, or supplier* shall so notify
39 the Department of Transportation and the Department of General
40 Services, and shall identify in the notice the area that is eligible to

1 receive the recycled water, and the necessary infrastructure that
2 the recycled water producer ~~or the retail water~~, *wholesaler, or*
3 supplier proposes to provide, to facilitate delivery of the recycled
4 water.

5 (b) If notice has been provided pursuant to subdivision (a), all
6 pipe installed by the Department of Transportation or the
7 Department of General Services for landscape irrigation within
8 the identified area shall be of the type necessary to meet the
9 requirements of Section 116815 of the Health and Safety Code
10 and applicable regulations.

11
12 Article 2. Studies Related to Recycled Water

13
14 18110. ~~The Department of Water Resources~~ *department* shall
15 conduct studies and investigations on the availability and quality
16 of wastewater and the uses of recycled water for beneficial
17 purposes, including, but not limited to, groundwater recharge,
18 municipal and industrial use, irrigation use, and cooling for thermal
19 electric powerplants.

20 18111. ~~The Department of Water Resources~~ *department* shall
21 study and investigate the technology of the use of recycled water
22 and further the development of the technology of the recycling of
23 water.

24
25 Article 3. Water Recycling in Landscaping Act

26
27 18120. If a recycled water producer, *wholesaler, or supplier*
28 determines that within 10 years the recycled water producer,
29 *wholesaler, or supplier* will provide recycled water within the
30 boundaries of a land use agency that meets all of the conditions
31 described in Section 18040, the recycled water producer shall
32 notify the land use agency of that fact and shall identify in the
33 notice the area that is eligible to receive the recycled water, and
34 the necessary infrastructure that the recycled water producer,
35 *wholesaler, or retail water* supplier will provide to support delivery
36 of the recycled water.

37 18121. (a) Within 180 days of receipt of notification from a
38 recycled water producer pursuant to Section 18120, the land use
39 agency shall adopt and enforce a recycled water ordinance pursuant
40 to this ~~chapter~~ *article*.

1 (b) The ordinance shall include, but not be limited to, provisions
 2 that do all of the following:

3 (1) State that it is the policy of the land use agency that recycled
 4 water determined to be available pursuant to Section 18040 shall
 5 be used for nonpotable uses within the designated recycled water
 6 use area set forth by the land use agency when the local *public*
 7 agency determines that there is not an alternative higher or better
 8 use for the recycled water, its use is economically justified, and
 9 its use is financially and technically feasible for projects under
 10 consideration by the land use agency.

11 (2) Designate the areas within the boundaries of the land use
 12 agency that can or may in the future use recycled water, including,
 13 but not limited to, existing urban areas in lieu of potable water.

14 (3) Establish general rules and regulations governing the use
 15 and distribution of recycled water in accordance with applicable
 16 laws and regulations.

17 (4) Establish that the use of the recycled water is determined to
 18 be available pursuant to Section 18040 in new industrial,
 19 commercial, or residential subdivisions located within the
 20 designated recycled water use areas for which a tentative map or
 21 parcel map is required pursuant to Section 66426 of the
 22 Government Code. These provisions shall require a separate
 23 plumbing system to serve nonpotable uses in the common areas
 24 of the subdivision, including, but not limited to, golf courses, parks,
 25 greenbelts, landscaped streets, and landscaped medians. The
 26 separate plumbing system to serve nonpotable uses shall be
 27 independent of the plumbing system provided to serve domestic,
 28 residential, and other potable water uses in the subdivision.

29 (5) Require that recycled water service shall not commence
 30 within the designated recycled water use area in any service area
 31 of a private utility, as defined in Section 1502 of the Public Utilities
 32 Code, or to any service area of a public agency retail water supplier
 33 that is not a local *public* agency as defined in Section ~~18005~~,
 34 except in accordance with a written agreement between the recycled
 35 water producer *or wholesaler* and the private utility or public
 36 agency retail water supplier that shall be made available in a timely
 37 manner by the recycled water producer *or wholesaler* to the land
 38 use agency adopting the ordinance pursuant to this ~~chapter~~ *article*.

1 18122. The recycled water ordinance adopted by a land use
2 agency pursuant to Section 18121 shall not apply to either of the
3 following:

4 (a) A tentative map as defined in Section 66424.5 of the
5 Government Code, or a development, as defined in Section 65927
6 of the Government Code, that was approved by the ~~local~~ *land use*
7 agency prior to the receipt of notification from a recycled water
8 producer, *wholesaler, or supplier* pursuant to Section 18120.

9 (b) A subdivision map application that is deemed complete
10 pursuant to Section 65943 of the Government Code prior to the
11 ~~local~~ *land use* agency’s receipt of a notice from a recycled water
12 producer, *wholesaler, or supplier* pursuant to Section 18120.

13 18123. (a) This chapter shall not apply to any land use agency
14 that adopted a recycled water ordinance or other regulation
15 requiring the use of recycled water in its jurisdiction prior to
16 January 1, 2001.

17 (b) This chapter does not alter any rights, remedies, or
18 obligations that may exist pursuant to Chapter 8.5 (commencing
19 with Section 1501) of Part 1 of Division 1 of the Public Utilities
20 Code.

21

22 Article 4. Provisions Specific to Recycled Water Suppliers and
23 Retail
24

25 18130. In addition to any other authority provided in law, any
26 water supplier described in subdivision (b) of Section 1745 may
27 acquire, store, provide, sell, and deliver recycled water for any
28 beneficial use, including, but not limited to, municipal, industrial,
29 domestic, and irrigation uses, if the water use is in accordance with
30 the uniform *water recycling* criteria and regulations established
31 pursuant to this division or the ~~uniform~~ *drinking water* criteria for
32 advanced treated purified water established pursuant to *subdivision*
33 *(b) of Section _____ 18031.*

34 18131. (a) Retail water suppliers shall identify potential uses
35 for recycled water within their service areas, potential customers
36 for recycled water service within their service areas, and, within
37 a reasonable time, potential sources of recycled water.

38 (b) Recycled water producers and recycled water wholesalers
39 may also identify potential uses for recycled water, and may assist

1 retail water suppliers in identifying potential customers for recycled
2 water service within the service areas of those retail water suppliers.

3 (c) Recycled water producers, ~~retail water~~ *wholesalers, and*
4 suppliers, and entities responsible for groundwater replenishment
5 may cooperate in joint technical, economic, and environmental
6 studies, as appropriate, to determine the feasibility of providing
7 recycled water service and recycled water for groundwater
8 replenishment consistent with the criteria set forth in paragraphs
9 (1) to (3), inclusive, of subdivision (a) of Section ~~_____ 18040~~ and
10 in accordance with Section 60320 of Title 22 of the California
11 Code of Regulations.

12 18132. (a) A retail water supplier that has identified a potential
13 use or customer pursuant to Section 18131 may apply to a recycled
14 water producer or recycled water wholesaler for a recycled water
15 supply.

16 (b) A recycled water producer or recycled water wholesaler that
17 has identified a potential use or customer pursuant to Section 18131
18 may request, in writing, a retail water supplier to enter into an
19 agreement to provide recycled water to the potential customer.

20 (c) A customer may request, in writing, a retail water supplier
21 to enter into an agreement to provide recycled water to the
22 customer.

23 (d) (1) An entity responsible for groundwater replenishment
24 that is a customer of a retail water supplier and that has identified
25 the potential use of recycled water for groundwater replenishment
26 purposes may, in writing, request that retail water supplier to enter
27 into an agreement to provide recycled water for that purpose. That
28 entity shall not obtain recycled water for that purpose from a
29 recycled water producer, a recycled water wholesaler, or another
30 retail water supplier without the agreement of the entity's retail
31 water supplier.

32 (2) An entity responsible for groundwater replenishment that
33 is not a customer of a retail water supplier and that has identified
34 the potential use of recycled water for groundwater replenishment
35 purposes may, in writing, request a retail water supplier, a recycled
36 water producer, or a recycled water wholesaler to enter into an
37 agreement to provide recycled water for that purpose.

38 18133. (a) (1) ~~Subject to subdivision (c) of Section _____,~~ a
39 A retail water supplier that receives a request from a customer
40 pursuant to subdivision (c) of Section 18132 shall enter into an

1 agreement to provide recycled water, if recycled water is available,
2 or can be made available, to the retail water supplier for sale to
3 the customer.

4 (2) Notwithstanding paragraph (1), in accordance with a written
5 agreement between a recycled water producer or a recycled water
6 wholesaler and a retail water supplier, the retail water supplier
7 may delegate to a recycled water producer or a recycled water
8 wholesaler its responsibility under this section to provide recycled
9 water.

10 (b) A customer shall not obtain recycled water from a recycled
11 water producer, a recycled water wholesaler, or a retail water
12 supplier other than the retail water supplier whose service area
13 includes the property to which the customer requests recycled
14 water delivery without the agreement of the retail water supplier
15 for that service area.

16 (c) If either a recycled water producer or a recycled water
17 wholesaler provides a customer of a retail water supplier with a
18 written statement that it can and will provide recycled water to the
19 retail water supplier, the retail water supplier shall, not later than
20 120 days from the date on which the retail water supplier receives
21 the written statement from the customer, by certified mail, return
22 receipt requested, submit a written offer to the customer. A
23 determination of availability pursuant to Section ~~_____~~ 18040 is
24 not required.

25 (d) If the state board, pursuant to Section ~~_____~~ 18040, makes a
26 determination that there is available recycled water to serve a
27 customer of a retail water supplier, the retail water supplier, not
28 later than 120 days from the date on which the retail water supplier
29 receives a copy of that determination from the customer, by
30 certified mail, return receipt requested, shall submit a written offer
31 to the customer.

32

33 Article 5. Distribution of Recycled Water in Separate Purple
34 Pipelines

35

36 18140. (a) Water delivery systems on private property that
37 could deliver recycled water for nonpotable uses ~~described in~~
38 Section ~~_____~~, that are constructed on and after January 1, 1993,
39 shall be designed to ensure that the water to be used for potable
40 uses is delivered, from the point of entry to the private property

1 to be served, in a separate pipeline ~~which~~ *that* is not used to deliver
2 the recycled water.

3 (b) This section applies to water delivery systems on private
4 property constructed within either of the following jurisdictions:

5 (1) One that has an urban water management plan that includes
6 the intent to develop recycled water use.

7 (2) One that does not have an urban water management plan
8 that includes recycled water use, but that is within five miles of a
9 jurisdiction that does have an urban water management plan that
10 includes recycled water use, and has indicated a willingness to
11 serve the water delivery system.

12 (3) One that has received notice under Section ~~_____~~ 18120.

13 (c) This section does not preempt local regulation of the delivery
14 of water for potable and nonpotable uses and any local governing
15 body may adopt requirements for water delivery systems on private
16 property that are more restrictive than the requirements of this
17 section.

18 18141. (a) All pipes installed above or below the ground, on
19 and after June 1, 1993, that are designed to carry recycled water,
20 shall be colored purple or distinctively wrapped with purple tape.

21 ~~(b) Purple pipe shall be used solely for distribution of recycled~~
22 ~~water or any combination of recycled water, potable water, and~~
23 ~~raw water that the supplier may elect to use to supplement its~~
24 ~~recycled water for operational reasons.~~

25 ~~(e)~~

26 (b) Subdivision (a) shall apply only in areas served by a water
27 supplier delivering water for municipal and industrial purposes,
28 and shall not apply to any of the following:

29 (1) Municipal or industrial facilities that have established a
30 labeling or marking system for recycled water on their premises,
31 as otherwise required by a local agency, that clearly distinguishes
32 recycled water from potable water.

33 (2) Water delivered for agricultural use.

34

35 CHAPTER 5. PERMITTING OF RECYCLED WATER

36

37 Article 1. Authority

38

39 ~~18200. (a) It is the intent of the Legislature that the department~~
40 ~~permit potable reuse projects using advanced treated purified water.~~

1 ~~(b) It is the intent of the Legislature that the state board and~~
2 ~~regional boards permit nonpotable reuse projects and potable reuse~~
3 ~~projects using potable water other than advanced treated purified~~
4 ~~water.~~

5 *18200. The use of recycled water, as defined in this division,*
6 *with the exception of advanced treated purified water, shall be*
7 *permitted by the appropriate regional board or the state board in*
8 *accordance with this chapter. The use of advanced treated purified*
9 *water shall be permitted in accordance with Chapter 20*
10 *(commencing with Section 26300) of Division 20 of the Health*
11 *and Safety Code. All other water reuse shall be permitted as*
12 *appropriate in accordance with Division 7 (commencing with*
13 *Section 13000).*

14 *18201. (a) The state board and regional boards shall issue*
15 *water recycling permits for nonpotable uses of recycled water,*
16 *and recycled water groundwater recharge projects using soil*
17 *aquifer treated purified water, in conformance with this division.*
18 *Water recycling permits for nonpotable uses of recycled water*
19 *shall implement the uniform water recycling criteria adopted by*
20 *the State Department of Public Health pursuant to Section 18020.*
21 *Water recycling permits for recycled water groundwater recharge*
22 *projects using soil aquifer treated purified water shall implement*
23 *the drinking water criteria adopted by the State Department of*
24 *Public Health pursuant to subdivision (a) of Section 18031.*

25 *(b) The state board and regional boards shall permit raw water*
26 *augmentation projects not subject to the criteria developed*
27 *pursuant to Section 18031 utilizing recycled water that is not*
28 *advanced treated purified water on a case-by-case basis in*
29 *consultation with the State Department of Public Health.*

30 *(c) Except as provided for in subdivision (d), the use of advanced*
31 *treated purified water for raw water augmentation shall be*
32 *permitted as a source of supply by the State Department of Public*
33 *Health pursuant to Section 26302 of the Health and Safety Code*
34 *and not subject to a water recycling permit. The permits shall*
35 *implement the drinking water criteria adopted by the State*
36 *Department of Public Health pursuant to subdivision (b) of Section*
37 *18031.*

38 *(d) When advanced treated purified water is used in conjunction*
39 *with soil aquifer treated purified water in a recycled water*
40 *groundwater recharge project, the recycled water groundwater*

1 recharge project shall be regulated in accordance with a water
 2 recycling permit issued pursuant to Section 18212. The permit
 3 shall implement the drinking water criteria adopted by the State
 4 Department of Public Health pursuant to subdivision (a) of Section
 5 18031.

6 18202. In addition to establishing uniform water recycling
 7 criteria pursuant to Section 18020 and drinking water criteria
 8 pursuant to Section 18031, the State Department of Public Health
 9 shall review reports of intent to recycle water as provided in Article
 10 3 (commencing with Section 18220) and make any
 11 recommendations for the proposed recycled water projects to the
 12 state board and regional boards as appropriate for protection of
 13 public health.

14 18203. (a) The use of recycled water, as defined in this
 15 division, permitted prior to December 31, 2012, utilizing water
 16 recycling requirements, master recycling permits, or waste
 17 discharge requirements issued pursuant to Division 7 (commencing
 18 with Section 13000) shall be permitted in accordance with this
 19 division or Chapter 20 (commencing with Section 26300) of
 20 Division 20 of the Health and Safety Code, as applicable, upon
 21 expiration or modification of the water recycling requirements,
 22 master recycling permits, or waste discharge requirements, or
 23 upon agreement by the appropriate regional board and permitted
 24 entity, whichever is sooner.

25 (b) The use of recycled water, as defined in this division,
 26 permitted prior to December 31, 2012, utilizing water recycling
 27 requirements, master recycling permits, or waste discharge
 28 requirements issued pursuant to Division 7 (commencing with
 29 Section 13000) shall be complied with, administered, and enforced
 30 in accordance with those water recycling requirements, master
 31 recycling permits, or waste discharge requirements issued pursuant
 32 to Division 7 (commencing with Section 13000).

33

34 Article 2. Types of Permits

35

36 18210. (a) ~~The state board or a regional board may issue~~
 37 a water recycling permit ~~may be issued~~ for nonpotable reuse to a
 38 producer, wholesaler, or supplier of recycled water, or a
 39 combination thereof for multiple users of recycled water.

1 (b) A water recycling permit *for nonpotable reuse* shall include
2 *all of the following:*

3 (1) _____.

4 (2) _____.

5 (1) *Water recycling requirements to assure compliance with*
6 *the uniform water recycling criteria for nonpotable reuse.*

7 (2) *A requirement that the permittee establish and enforce rules*
8 *or regulations for recycled water users governing the use of*
9 *recycled water in accordance with the uniform water recycling*
10 *criteria.*

11 (3) *A requirement that the permittee submit an annual report*
12 *summarizing recycled water use, including the total amount of*
13 *recycled water supplied, the total number of recycled water use*
14 *sites, and the locations of those sites, including the names of the*
15 *groundwater basins underlying the recycled water use sites.*

16 (4) *A requirement that the permittee create a program for*
17 *oversight of the facilities of the recycled water users to monitor*
18 *compliance by the users with the uniform water recycling criteria,*
19 *the applicable water recycling permit, and the requirements of the*
20 *permittee's adopted rules and regulations.*

21 (5) *A requirement that the permittee comply with the program*
22 *described in the permittee's report of intent to recycle water filed*
23 *pursuant to Section 18220.*

24 (c) With regard to requirements related to the protection of the
25 public health, the state board and regional boards shall implement
26 the recommendations of the ~~department~~ *State Department of Public*
27 *Health.*

28 (d) Where water recycling occurs within an area covered by a
29 municipal separate storm sewer *system* permit issued pursuant to
30 the federal National Pollutant Discharge Elimination System, the
31 state board and regional water boards shall regulate incidental
32 runoff to the extent necessary as a low threat nonstorm water
33 discharge under the municipal separate storm sewer system permit.

34 (e) The state board and regional boards shall regulate filling
35 and storm-induced overflow of nonpotable surface water
36 augmentation reservoirs and other nonpotable impoundments on
37 a case-by-case basis as ~~the state board or a regional board~~
38 ~~determines to be~~ necessary to avoid or minimize identified adverse
39 impacts relating to the individual impoundment that are not
40 addressed by uniform *water recycling* criteria.

1 18211. (a) In lieu of issuing a water recycling permit for
2 *nonpotable reuse* to a producer, wholesaler, or supplier of recycled
3 water, *the state board or a regional water board may issue* general
4 permits ~~may be issued~~ that provide coverage to producers,
5 wholesalers, or suppliers, or a combination thereof.

6 (b) A general permit *for recycled water that involves nonpotable*
7 *reuse* shall include requirements consistent with those specified
8 in Section 18210 for an individual water recycling permit.

9 18212. (a) *The state board or a regional board may issue a*
10 *recycled water groundwater recharge permit to a producer,*
11 *wholesaler, or supplier of recycled water, an entity responsible*
12 *for groundwater replenishment, or a combination thereof, for*
13 *recycled water groundwater recharge projects using soil aquifer*
14 *treated purified water, alone or in conjunction with advanced*
15 *treated purified water.*

16 (b) A recycled water groundwater recharge permit shall include
17 all of the following:

18 (1) *Requirements to assure compliance with the drinking water*
19 *criteria for recycled water groundwater recharge projects.*

20 (2) *Source control requirements needed to protect the quality*
21 *of the recycled water and achieve the requirements of paragraph*
22 *(1).*

23 (3) *Appropriate monitoring and reporting requirements to*
24 *characterize the quality of the recycled water and groundwater*
25 *basin and demonstrate compliance with the requirements of the*
26 *permit.*

27 (4) *Specifications with respect to buffer zones, travel times,*
28 *diluent ratios, and groundwater retention requirements, as*
29 *recommended by the State Department of Public Health to protect*
30 *public health.*

31 (5) *A requirement that the permittee comply with the program*
32 *described in the permittee's report of intent to recycle water filed*
33 *pursuant to Section 18221.*

34 (c) *With regard to requirements related to protection of public*
35 *health, the state board and regional boards shall implement the*
36 *recommendations of the State Department of Public Health.*

Article 3. Permit Application

18220. (a) Any recycled water producer, wholesaler, or supplier of recycled water for nonpotable purposes for which uniform *water recycling* criteria have been established shall file with the appropriate regional board a report of intent to recycle water containing the following information:

(1) _____.

(2) _____.

(3) _____.

(1) *An engineering report containing the information required by the State Department of Public Health in accordance with its regulations established in Title 22 of the California Code of Regulations. The engineering report shall include, but not be limited to, a description of the methods or methods of wastewater treatment for the category of recycled water to be used and a description of the method or methods to be used to assure that the installation and operation of the recycled system will not result in cross-connections between the recycled water and potable water piping systems, but shall not require the identification of every site that may be connected to the recycled water delivery system as long as every category of recycled water use is addressed. The engineering report shall also include a detailed operations plan for the recycled water use areas, including methods and procedures for implementation of regulations regarding recycled water use and maintenance of equipment and emergency backup systems, and a monitoring and reporting program to demonstrate compliance with subdivision (b) of Section 18210.*

(2) *An implementation plan for demonstrating that the use of recycled water in accordance with this division will not cause the receiving water to exceed any water quality objective specified for the receiving water in the applicable water quality control plan, except as provided in Section 18224. Where a salt or nutrient, or salt and nutrient, management plan is in place for the basin or subbasin, the implementation plan may consist of the implementation provisions of that plan.*

(3) *As applicable, a copy of the recycled water producer's, wholesaler's, or supplier's established rules, or general rules or regulations as approved by the State Department of Public Health for producers, wholesalers, suppliers, and users, governing the*

1 *use of recycled water in accordance with the uniform water*
 2 *recycling criteria.*

3 (b) Every recycled water producer, wholesaler, or supplier of
 4 recycled water shall file with the appropriate regional board a
 5 report of any material change or proposed change in the character
 6 of the recycled water or its use.

7 (c) Each report under this section shall be sworn to, or submitted
 8 under penalty of perjury.

9 (d) This section shall not be construed so as to require any report
 10 in the case of any producing, manufacturing, or processing
 11 operation involving the recycling of water solely for use in the
 12 producing, manufacturing, or processing operation.

13 18221. (a) Any person proposing a recycled water groundwater
 14 recharge project as defined in this division, within any region and
 15 in accordance with the uniform *drinking water* criteria, shall file
 16 with the appropriate regional board a report of intent to recycle
 17 water containing the following information:

18 ~~(1) _____.~~

19 ~~(2) _____.~~

20 (1) *An engineering report consisting of the information required*
 21 *by the State Department of Public Health in accordance with its*
 22 *regulations established in Title 22 of the California Code of*
 23 *Regulations. The engineering report shall include, but not be*
 24 *limited to, a description of the method or methods of treatment, a*
 25 *description of the proposed retention time and methodology used*
 26 *to calculate the retention time, a description of the diluent*
 27 *requirements, recycled water contribution and methods for*
 28 *establishing the diluent requirements and recycled water*
 29 *contribution, and a description of the proposed monitoring*
 30 *program consistent with the drinking water criteria. The*
 31 *engineering report shall also include a detailed operations plan,*
 32 *including methods and procedures for implementation of the*
 33 *drinking water criteria, and maintenance of equipment and*
 34 *emergency backup systems.*

35 (2) *An implementation plan for demonstrating that the use of*
 36 *recycled water in accordance with this division will not cause the*
 37 *underlying groundwater to exceed any water quality objective*
 38 *specified for the groundwater in the applicable water quality*
 39 *control plan, except as provided in Section 18224. Where a*
 40 *salt/nutrient plan is in place for the basin or subbasin, the*

1 *implementation plan may consist of the implementation provisions*
2 *of such salt/nutrient plan.*

3 (b) Every person recycling water or using recycled water subject
4 to this section shall file with the appropriate regional board a report
5 of any material change or proposed change in the character of the
6 recycled water or its use.

7 (c) Each report under this section shall be sworn to, or submitted
8 under penalty of perjury.

9 *18221.5. (a) The applicable regional board shall determine*
10 *the adequacy of a report of intent to recycle water filed pursuant*
11 *to either Section 18220 or 18221 within the time limits set forth*
12 *in Section 65943 of the Government Code.*

13 (b) *When a project is deemed approved pursuant to Section*
14 *65943 of the Government Code due to a regional board failure to*
15 *act on a report of intent to recycle water, the applicant may recycle*
16 *water as proposed in the report of intent to recycle water until the*
17 *regional board adopts a water recycling permit or recycled water*
18 *groundwater recharge permit relative to that project. The regional*
19 *board shall adopt an appropriate water recycling permit or*
20 *recycled water groundwater recharge permit as soon as possible*
21 *for any project deemed approved pursuant to Section 65943 of the*
22 *Government Code.*

23 (c) *When the applicant has submitted all the information*
24 *required by the regional board in accordance with this chapter*
25 *and any fee that is due, the report of intent to recycle water shall*
26 *be deemed filed. The applicant shall be notified to that effect.*

27 18222. The state board and each regional board shall consult
28 with and receive the recommendations of the ~~department~~ *State*
29 *Department of Public Health* prior to prescribing any water
30 recycling permit as described in Section 18210 *or 18212* or a
31 general permit *for recycled water* as described in Section 18211.

32 18223. (a) The state board or ~~the~~ *a* regional board, as
33 applicable, shall hold a public hearing for the adoption of any water
34 recycling permit as described in Section 18210 *or 18212* or a
35 general permit *for recycled water* as described in Section 18211.

36 (b) The state board or the regional board, as applicable, shall
37 provide notice and a period of at least 30 days for public comment
38 prior to the adoption of any water recycling permit or general
39 permit for recycled water.

1 (c) The notification required by subdivision (b) may be provided
 2 by mailing a draft of the water recycling permit or general permit
 3 *for recycled water* to each person who has requested notice of the
 4 specific item, or by posting a draft of the respective requirements
 5 or order on the official Internet site maintained by the state board
 6 or regional board, and providing notice of that posting by electronic
 7 mail to each person who has requested notice.

8 ~~(d) This section does not require the state board or the regional~~
 9 ~~board to provide more than one notice or more than one public~~
 10 ~~comment period prior to the adoption of a water recycling permit~~
 11 ~~or general permit for recycled water.~~

12 18224. The state board and regional boards shall not deny
 13 issuance of a water recycling permit or general permit for recycled
 14 water to a project ~~which causes or contributes to the exceedance~~
 15 ~~of that violates~~ only a salinity standard in the basin plan.

16
 17 Article 4. Permit Fees
 18

19 18230. (a) (1) *Each person who submits a report of intent to*
 20 *recycle water in accordance with Section 18220 or 18221 shall*
 21 *submit a permit filing fee according to a fee schedule established,*
 22 *and periodically adjusted as appropriate, by the state board in*
 23 *conformance with this section.*

24 (2) *The state board shall provide notice and a period of at least*
 25 *30 days for public comment prior to the adoption or adjustment*
 26 *of any permit filing fee as described in paragraph (1) at a noticed*
 27 *public meeting. The notification may be provided by mailing a*
 28 *draft of the proposed permit filing fee to each person who has*
 29 *requested notice of the specific item, or by posting a draft of the*
 30 *proposed fee on the official Internet Web site maintained by the*
 31 *state board, and providing notice of that posting by electronic mail*
 32 *to each person who has requested notice.*

33 (3) *Any permit filing fee adopted by the state board, or*
 34 *adjustments thereto, shall not be subject to the requirements of*
 35 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
 36 *3 of Title 2 of the Government Code, and shall remain in effect*
 37 *until revised by the state board.*

38 (b) *The total amount of permit filing fees collected pursuant to*
 39 *this section shall equal that amount necessary to recoup the costs*

1 incurred by the state board or regional board in issuing water
2 recycling permits and general permits for recycled water.

3 (c) The permit filing fee shall be paid before the appropriate
4 regional board may deem the report of intent to recycle water to
5 be complete.

6 (d) The permit filing fees collected pursuant to this section shall
7 be deposited in the Water Recycling Permit Fund, which is hereby
8 created. The money in the fund is available for expenditure by the
9 state board, upon appropriation by the Legislature, solely for the
10 purposes of carrying out this division.

11 ~~18230.~~

12 18231. (a) (1) Each person who is subject to a water recycling
13 permit as described in Section 18210 or 18212, a general permit
14 for recycled water as described in Section 18211, or a permit issued
15 by the State Department of Public Health pursuant to Section
16 26302 of the Health and Safety Code shall submit an annual fee
17 according to a fee schedule established, and periodically adjusted
18 as appropriate, by the state board in conformance with this section.

19 (2) The state board shall establish, by regulation, a timetable
20 for payment of the annual fee.

21 (3) The state board shall provide notice and a period of at least
22 30 days for public comment prior to the adoption or adjustment
23 of any annual fee as described in paragraph (1) or timetable as
24 described in paragraph (2) at a noticed public meeting. The
25 notification may be provided by mailing a draft of the proposed
26 fee or timetable, as applicable, to each person who has requested
27 notice of the specific item, or by posting a draft of the proposed
28 fee or timetable, as applicable, on the official Internet Web site
29 maintained by the state board, and providing notice of that posting
30 by electronic mail to each person who has requested notice.

31 (4) Any annual fee or timetable adopted by the state board, or
32 adjustments thereto, shall not be subject to the requirements of
33 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
34 3 of Title 2 of the Government Code, and shall remain in effect
35 until revised by the state board.

36 (b) The total amount of annual fees collected pursuant to this
37 section shall not exceed equal the amount necessary to recover
38 recoup the recoverable costs as described in subdivision (c)
39 incurred in connection with the issuance, administration, reviewing,
40 monitoring, and enforcement of water recycling permits and general

1 permits for recycled water *and consultation with the State*
 2 *Department of Public Health regarding permits issued pursuant*
 3 *to Section 26302 of the Health and Safety Code.*

4 ~~(c) Recoverable costs may include, but are not limited to, are~~
 5 ~~those costs incurred by the state board or a regional board in~~
 6 ~~reviewing monitoring reports; prescribing terms of water recycling~~
 7 ~~permits, general permits for recycled water, and monitoring~~
 8 ~~requirements; enforcing and evaluating compliance with water~~
 9 ~~recycling permits and general permits for recycled water; analyzing~~
 10 ~~laboratory samples; adopting, reviewing, and revising state policies~~
 11 ~~as relevant to water recycling; and reviewing documents prepared~~
 12 ~~for the purpose of regulating *permits for* water recycling; and~~
 13 ~~administrative costs incurred in connection with carrying out these~~
 14 ~~actions.~~

15 ~~(d) The fees paid to the state board and department for any single~~
 16 ~~water recycling permit shall not exceed the amount necessary to~~
 17 ~~recover the recoverable costs reasonably attributed to the permit,~~
 18 ~~not to exceed ten thousand dollars (\$10,000) per year per agency.~~

19 ~~(e) Notwithstanding any other provision of law, the state board~~
 20 ~~or regional board may elect to charge no fee for water recycling~~
 21 ~~permits in order to encourage recycling, reduce discharges, and~~
 22 ~~enhance compliance with state and federal water quality laws.~~

23 ~~(d) The fees collected pursuant to this section shall be deposited~~
 24 ~~in the Water Recycling Permit Fund established pursuant to Section~~
 25 ~~18230.~~

26

27 CHAPTER 5.5. ADMINISTRATIVE AND JUDICIAL REVIEW

28

29 18300. An aggrieved person may petition the state board to
 30 review any action or failure to act of a regional board pursuant to
 31 this division in the same manner as provided for an action or failure
 32 to act of a regional board pursuant to Division 7 (commencing
 33 with Section 13000) in accordance with Section 13320. The petition
 34 may include a request for stay of the water recycling permit or any
 35 requirements thereof. A request for stay shall be subject to the
 36 procedural requirements of Sections 13320 and 13321.

37 18301. A person aggrieved by a decision or order of a regional
 38 board subject to review under Section ~~_____ 18300~~, or of a decision
 39 or order of the state board ~~pursuant to Section _____~~, may obtain
 40 review of the decision or order of the regional board or state board,

1 as appropriate, in the superior court in the same manner as provided
2 for review of a regional board or state board decision or order
3 under Division 7 (commencing with Section 13000) in the superior
4 court in accordance with the procedural requirements of Section
5 13330.

6

7 CHAPTER 6. ~~MONITORING AND REPORTING AND INVESTIGATION~~

8

9 18350. (a) Any person who, without regard to intent or
10 negligence, causes or permits an unauthorized release of 50,000
11 gallons or more of tertiary recycled water, as defined in subdivision
12 (c), in or on any waters of the state, or causes or permits such
13 unauthorized release to occur where it has, or probably will, enter
14 any waters of the state, shall, as soon as (1) that person has
15 knowledge of the release, (2) notification is possible, and (3)
16 notification can be provided without substantially impeding cleanup
17 or other emergency measures, immediately notify the appropriate
18 regional board.

19 (b) For the purposes of this section, an unauthorized release
20 means a release of recycled water not authorized by a water
21 recycling permit pursuant to Section 18210 *or* 18212, a general
22 permit *for recycled water* pursuant to Section 18211, or any other
23 provision of this division.

24 (c) For the purposes of this section, “tertiary recycled water”
25 means wastewater treated as “disinfected tertiary-2.2 recycled
26 water,” as defined or described by the ~~department~~ *State Department*
27 *of Public Health* or wastewater receiving advanced treatment
28 beyond disinfected tertiary 2.2 recycled water that is not advanced
29 treated purified water.

30 ~~(d) Incidental runoff shall be reported in accordance with this~~
31 ~~section.~~

32 (e)

33 (d) Storm-induced overflow is not an unauthorized release.

34 18351. (a) Any person refusing or failing to provide the notice
35 required by Section 18350, or as required by a condition of a water
36 recycling permit or a general permit for recycled water requiring
37 notification of unauthorized releases of recycled water, may be
38 subject to administrative civil liability in an amount not to exceed
39 the following:

1 (1) For the first violation, or a subsequent violation occurring
2 more than 365 days from a previous violation, five thousand dollars
3 (\$5,000).

4 (2) For a second violation occurring within 365 days of a
5 previous violation, ten thousand dollars (\$10,000).

6 (3) For a third or subsequent violation occurring within 365
7 days of a previous violation, twenty-five thousand dollars
8 (\$25,000).

9 (b) The penalties in this section supplement, and shall not
10 supplant, any other provisions of law.

11 (c) Any penalties paid pursuant to this section shall be deposited
12 into the Water Recycling Research Fund established pursuant to
13 Section 18405.

14 *18352. (a) A regional board may require any person suspected*
15 *of producing, wholesaling, supplying, or using recycled water in*
16 *violation of Section 18221 or Section 18220, or subdivision (a) of*
17 *Section 18400 to furnish information that the regional board*
18 *considers relevant to determining whether a violation is occurring*
19 *or has occurred.*

20 *(b) The state board may carry out the authority granted to a*
21 *regional board pursuant to this section if, after consulting with*
22 *the regional board, the state board determines that it will not*
23 *duplicate the efforts of the regional board.*

24

25 CHAPTER 7. ENFORCEMENT

26

27 18400. (a) A person shall not ~~serve~~ *produce, wholesale, supply,*
28 *or use recycled water for any purpose for which uniform water*
29 *recycling criteria or drinking water criteria have been established*
30 *until a water recycling permit or general permit has been*
31 ~~established~~ *issued* pursuant to this division or the state board or
32 applicable regional board determines that no such requirements
33 or permits are necessary.

34 (b) Upon the refusal or failure of any person or persons
35 producing, wholesaling, supplying, or using recycled water to
36 comply with subdivision (a), the Attorney General, at the request
37 of the regional board, shall petition the superior court for the
38 issuance of a temporary restraining order, preliminary injunction,
39 or permanent injunction, or combination thereof, as may be
40 appropriate, prohibiting forthwith any person or persons from

1 violating or threatening to violate the provisions of subdivision
2 (a).

3 (c) Any person or persons producing, wholesaling, supplying,
4 or using recycled water in violation of subdivision (a), after the
5 violation has been called to his or her attention in writing by the
6 state board or regional board, is guilty of a misdemeanor. Each
7 day of production, wholesaling, supplying, or use of recycled water
8 shall constitute a separate offense.

9 (d) *Civil liability may be administratively imposed by a regional*
10 *board in accordance with Sections 18401 and 18403 for a violation*
11 *of subdivision (a) in an amount which shall not exceed one*
12 *thousand dollars (\$1,000) for each day in which the violation*
13 *occurs.*

14 18401. (a) Any executive officer of a regional board may issue
15 a complaint to any person on whom administrative civil liability
16 may be imposed pursuant to this ~~part~~ *chapter*. The complaint shall
17 allege the act or failure to act that constitutes a violation of law,
18 the provision of law authorizing civil liability to be imposed
19 pursuant to this ~~part~~ *chapter*, and the proposed civil liability.

20 (b) The complaint shall be served by certified mail or in
21 accordance with Article 3 (commencing with Section 415.10) and
22 Article 4 (commencing with Section 416.10) of Chapter 4 of Title
23 5 of Part 2 of the Code of Civil Procedure, and shall inform the
24 party so served that a hearing before the regional board shall be
25 conducted within 90 days after the party has been served. The
26 person who has been issued a complaint may waive the right to a
27 hearing.

28 (c) In proceedings under this part for imposition of
29 administrative civil liability by the state board, the executive
30 director of the state board shall issue the complaint and any hearing
31 shall be before the state board, or before a member of the state
32 board in accordance with Section 183, and shall be conducted not
33 later than 90 days after the party has been served.

34 (d) Orders imposing administrative civil liability shall become
35 effective and final upon issuance thereof, and are not subject to
36 review by any court or agency except as provided by Sections
37 ~~_____~~ *18300 and 18301*. Payment shall be made not later than 30
38 days from the date on which the order is issued. The time for
39 payment is extended during the period in which a person who is
40 subject to an order seeks review under ~~Section _____~~ *Sections 18300*

1 *and 18301*. Copies of these orders shall be served by certified mail
2 or in accordance with Article 3 (commencing with Section 415.10)
3 and Article 4 (commencing with Section 416.10) of Chapter 4 of
4 Title 5 of Part 2 of the Code of Civil Procedure upon the party
5 served with the complaint and shall be provided to other persons
6 who appeared at the hearing and requested a copy.

7 (e) Information relating to hearing waivers and the imposition
8 of administrative civil liability, as proposed to be imposed and as
9 finally imposed, under this section shall be made available to the
10 public by means of the Internet.

11 18402. No person shall be subject to both civil liability imposed
12 under this ~~part~~ *chapter* and civil liability imposed by the superior
13 court under Section ~~_____~~ *18405* for the same act or failure to act.

14 18403. In determining the amount of civil liability, the regional
15 board, and the state board upon review of any order pursuant to
16 Section ~~_____~~ *18300*, shall take into consideration the nature,
17 circumstance, extent, and gravity of the violation or violations,
18 whether the release is susceptible to cleanup or abatement, and,
19 with respect to the violator, the ability to pay, the effect on ability
20 to continue in business, any voluntary cleanup efforts undertaken,
21 any prior history of violations, the degree of culpability, economic
22 benefit or savings, if any, resulting from the violation, and other
23 matters as justice may require.

24 18404. After the time for judicial review under Section ~~_____~~
25 *18301* has expired, the state board may apply to the clerk of the
26 appropriate court in the county in which the civil liability or penalty
27 was imposed, for a judgment to collect the civil liability or penalty.
28 The application, which shall include a certified copy of the state
29 board or regional board action, constitutes a sufficient showing to
30 warrant issuance of the judgment. The court clerk shall enter the
31 judgment immediately in conformity with the application. The
32 judgment so entered has the same force and effect as, and is subject
33 to all the provisions of law relating to, a judgment in a civil action,
34 and may be enforced in the same manner as any other judgment
35 of the court in which it is entered.

36 18405. (a) A person who (1) violates a cease and desist order
37 ~~or cleanup and abatement order~~ hereafter issued, reissued, or
38 amended by a regional board or the state board pursuant to this
39 division, or (2) in violation of a water recycling permit, ~~waiver~~
40 ~~condition, certification,~~ or other order or prohibition issued,

1 reissued, or amended by a regional board or the state board
2 pursuant to this division, causes or permits recycled water to be
3 used except in accordance with a water recycling permit or other
4 actions or provisions of this division, including overflow of
5 recycled water *from an impoundment* that does not constitute
6 storm-induced overflow as defined in this division, shall be liable
7 civilly, and remedies may be proposed, in accordance with
8 subdivision (c) or (d).

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

11 (1) An act of war.

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

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

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

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

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

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

31 (2) The civil liability on a per gallon basis shall not exceed
32 twenty dollars (\$20) for each gallon of recycled water ~~discharged~~
33 released.

34 (d) The state board or a regional board may impose civil liability
35 administratively pursuant to Section ~~_____~~ 18401 either on a daily
36 basis or on a per gallon basis, but not on both.

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

39 (A) When there is a release, and a ~~cleanup and abatement~~ *cease*
40 *and desist* order is issued *that requires cleanup*, except as provided

1 in subdivision ~~(f)~~ (e), the civil liability shall not be less than five
2 hundred dollars (\$500) for each day in which the release occurs
3 and for each day the ~~cleanup and abatement~~ *cease and desist* order
4 is violated.

5 (B) When there is no release, but an order issued by the regional
6 board is violated, except as provided in subdivision ~~(f)~~ (e), the
7 civil liability shall not be less than one hundred dollars (\$100) for
8 each day in which the violation occurs.

9 (2) The civil liability on a per gallon basis shall not exceed ten
10 dollars (\$10) for each gallon of recycled water released.

11 (e) A regional board shall not administratively impose civil
12 liability in accordance with ~~Section _____ paragraph (1) of~~
13 *subdivision (d)* in an amount less than the minimum amount
14 specified, unless the regional board makes express findings setting
15 forth the reasons for its action based upon the specific factors
16 required to be considered pursuant to Section _____ 18403.

17 (f) The Attorney General, upon request of a regional board or
18 the state board, shall petition the superior court to impose, assess,
19 and recover the sums. Except in the case of a violation of a *cease*
20 *and desist* order, a regional board or the state board shall make the
21 request only after a hearing, with due notice of the hearing given
22 to all affected persons. In determining the amount to be imposed,
23 assessed, or recovered, the court shall be subject to Section _____
24 18406.

25 (g) A person who incurs any liability established under this
26 section shall be entitled to contribution for that liability from a
27 third party, in an action in the superior court and upon proof that
28 the release was caused in whole or in part by an act or omission
29 of the third party, to the extent that the release is caused by the act
30 or omission of the third party, in accordance with the principles
31 of comparative fault.

32 (h) (1) The Legislature hereby establishes the Water Recycling
33 Research Fund.

34 (2) Notwithstanding any other law, all funds generated by the
35 imposition of liabilities pursuant to this section shall be deposited
36 into the Water Recycling Research Fund. These moneys shall be
37 separately accounted for, and shall be expended by the state board,
38 upon appropriation by the Legislature, to conduct or fund research
39 necessary to support the continued and safe use of recycled water
40 in the state.

1 *(i) In lieu of assessing penalties pursuant to this section, the*
2 *state board or regional board, with the concurrence of the person*
3 *subject to liability in accordance with this section, may direct a*
4 *portion of the amount that could have been imposed as a penalty*
5 *to be expended on a supplemental environmental project. For*
6 *purposes of this subdivision, “supplemental environmental project”*
7 *means an environmentally beneficial project relating to water*
8 *quality that a person agrees to undertake, with the approval of the*
9 *regional board, that would not be undertaken in the absence of an*
10 *enforcement action under this section.*

11 18406. In determining the amount of civil liability to be
12 imposed pursuant to this chapter, the superior court shall take into
13 consideration the nature, circumstance, extent, and gravity of the
14 violation or violations, whether the release is susceptible to cleanup
15 or abatement, the degree of toxicity of the release, and, with respect
16 to the violator, the ability to pay, the effect on ability to continue
17 in business, any voluntary cleanup efforts undertaken, any prior
18 history of violations, the degree of culpability, economic benefit
19 or savings, if any, resulting from the violation, and such other
20 matters as justice may require.

21 18407. *If a regional board finds that recycled water is being,*
22 *or may be, produced, wholesaled, supplied, or used in a manner*
23 *that violates or will violate a water recycling permit or general*
24 *permit prescribed by the regional board or the state board, the*
25 *board may require the producer, wholesaler, supplier, or user to*
26 *submit for approval of the board, with modifications as it*
27 *determines necessary, a detailed time schedule of specific actions*
28 *the producer, wholesaler, supplier, or user shall take in order to*
29 *correct or prevent a violation of the water recycling permit or*
30 *general permit.*

31 18408. *(a) If a regional board finds that recycled water is*
32 *being, or may be, produced, wholesaled, supplied, or used in*
33 *violation of a water recycling permit or general permit for recycled*
34 *water, the state board or regional board, as applicable, may issue*
35 *an order to cease and desist and direct that those persons not*
36 *complying with the water recycling permit or general permit for*
37 *recycled water comply immediately, comply in accordance with a*
38 *time schedule set by the board, or take appropriate remedial or*
39 *preventive action. Cease and desist orders may be issued directly*
40 *by a board, after notice and hearing.*

1 (b) Cease and desist orders shall become effective and final
2 upon issuance. Copies shall be served immediately by personal
3 service or by registered mail upon the person being charged with
4 the violation of the requirements and upon other affected persons
5 who appeared at the hearing and requested a copy.

6 18409. (a) If the regional board determines there is a
7 threatened or continuing violation of any cease and desist order,
8 the regional board may issue an order establishing a time schedule
9 for compliance and prescribing a civil penalty which shall become
10 due if compliance is not achieved in accordance with that time
11 schedule.

12 (b) The amount of the civil penalty shall be based upon the
13 amount reasonably necessary to achieve compliance, and may not
14 include any amount intended to punish or redress previous
15 violations. The amount of the penalty may not exceed ten thousand
16 dollars (\$10,000) for each day in which the violation occurs.

17 (c) Any person who fails to achieve compliance in accordance
18 with the schedule established in an order issued pursuant to
19 subdivision (a) shall be liable civilly in an amount not to exceed
20 the amount prescribed by the order. The regional board may
21 impose the penalty administratively in accordance with this
22 chapter. If the regional board imposes the penalty in an amount
23 less than the amount prescribed in the order issued pursuant to
24 subdivision (a), the regional board shall make express findings
25 setting forth the reasons for its action.

26 (d) The state board may exercise the powers of a regional board
27 under this section if the violation or threatened violation involves
28 requirements prescribed by an order issued by the state board.

29 (e) Funds collected pursuant to this section shall be deposited
30 in the State Water Pollution Cleanup and Abatement Account.

31 (f) Civil liability may be imposed pursuant to this section only
32 if civil liability is not imposed pursuant to Section 18405.

33 ~~18407.~~

34 18410. (a) If the ~~department~~ State Department of Public Health
35 or a local health officer finds that a contamination of potable water
36 supplies exists as a result of the use of recycled water, the
37 department or local health officer shall order the contamination
38 abated in accordance with the procedure provided for in Chapter
39 6 (commencing with Section 5400) of Part 3 of Division 5 of the
40 Health and Safety Code.

1 (b) The use of recycled water in accordance with the uniform
 2 *water recycling criteria established pursuant to Section 18020,*
 3 *and drinking water criteria established pursuant to Section 18031,*
 4 for the purpose of this section, does not cause, constitute, or
 5 contribute to, any form of contamination. *If new information*
 6 *becomes available or circumstances materially change, the*
 7 *regional board may reopen, revise, and reissue the water recycling*
 8 *permit.*

9
 10 CHAPTER 8. FUNDING

11
 12 18450. The department may assist local agencies and public
 13 utilities providing water service in applying for, and in obtaining
 14 approval of, federal and state funding and permits for cost-effective
 15 water recycling projects and shall confer and cooperate with the
 16 state board during the application and approval process.

17 18451. To implement the policy declarations of this division,
 18 the state board is authorized to provide loans for the development
 19 of water recycling facilities, or for studies and investigations in
 20 connection with water recycling, pursuant to the provisions of
 21 Chapter 6 (commencing with Section 13400) of Division 7.

22 18452. In administering any statewide program of financial
 23 assistance for water pollution or water quality control delegated
 24 to it pursuant to Chapter 6 (commencing with Section 13400) of
 25 Division 7, the state board shall give added consideration to water
 26 quality control facilities providing optimum water recycling and
 27 use of recycled water.

28 ~~SEC. 20.~~

29 *SEC. 26.* No reimbursement is required by this act pursuant to
 30 Section 6 of Article XIII B of the California Constitution because
 31 the only costs that may be incurred by a local agency or school
 32 district will be incurred because this act creates a new crime or
 33 infraction, eliminates a crime or infraction, or changes the penalty
 34 for a crime or infraction, within the meaning of Section 17556 of
 35 the Government Code, or changes the definition of a crime within
 36 the meaning of Section 6 of Article XIII B of the California
 37 Constitution.

O