



- Board of Directors  
*Communications and Legislation Committee*

5/8/2012 Board Meeting

9-2

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## Subject

Report on AB 2398 (Hueso, D-Chula Vista) - Water Recycling

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## Description

The WaterReuse Association, Eastern Municipal Water District, Irvine Ranch Water District and the San Diego County Water Authority are cosponsoring AB 2398 by Assemblyman Ben Hueso (D-Chula Vista), the Water Recycling Act of 2012.

In 2010, Metropolitan's Board adopted the Integrated Water Resources Plan Update (IRP) which identified regional and operational challenges in recycled water development and established revised water recycling targets. In December 2011, the Board adopted the legislative strategy for 2012 including several elements for recycled water, which have been incorporated in this legislation. AB 2398 addresses several of the permitting challenges identified in the IRP and Metropolitan's 2012 legislative strategy and would facilitate increased development and use of recycled water. In accordance with the two board-adopted policies referenced above, Metropolitan has gone on record in support of AB 2398 ([Attachment 1](#)).

In order to maximize water supply reliability while protecting public health and the environment, AB 2398 proposes to:

1. Reclassify recycled water as a valuable resource by:
  - Removing recycled water from the definition of "waste" under the Water Code and Health and Safety Code and distinguish recycled water by type and level of treatment;
  - Establishing a new statewide goal to recycle 1.5 MAF of recycled water by 2020 and 2.5 MAF by 2030; and
  - Directing state agencies to encourage use of recycled water.
2. Consolidate and reorganize recycled water statutes by:
  - Revising and consolidating provisions relating to recycled water into Division 8 commencing with Section 18000 of the Water Code and by repealing redundant and contradictory sections of existing law.
3. Clarify recycled water criteria, permitting process, and enforcement mechanisms by:
  - Requiring the California Department of Public Health (DPH) to adopt drinking water criteria for groundwater recharge projects utilizing recycled water by December 31, 2013 and drinking water criteria for use of advanced treated potable water for raw water augmentation projects by December 31, 2016;
  - Establishing a clear permitting system specific to recycled water, specifying the permitting and enforcement mechanisms and processes of the regulating agencies;
  - Prescribing the types, contents and timelines for permitting recycled water by the Regional Water Quality Control Boards and DPH;

- Limiting health-based requirements to those established by DPH if the use is one for which DPH has established uniform statewide criteria;
- Authorizing DPH to issue permits for raw water and treated water augmentation projects;
- Establishing new filing and permitting fees for DPH and requiring revenues generated from those fees to be deposited in the Augmentation Permit Fund for the purpose of the permit program; and
- Establishing the Water Recycling Research Fund to collect civil penalties and upon appropriation conduct necessary research to support safe use of recycled water.

Staff believes the goals outlined in AB 2398 would reduce impediments to water recycling and would help the state achieve a water recycling goal of 1.5 MAF of water per year by 2020. The sponsors are collaborating with its membership and other stakeholders to make further changes to the bill to gain broader support.

The April 16 amendment of the bill ([Attachment 2](#)) includes positive clarifications and refinements that appear to address prior concerns noted by staff, including provisions directing DPH to examine existing source water quality protection principles by enforcing a multi-barrier approach in utilizing recycled water for groundwater recharge and surface water augmentation (e.g. environmental barriers such as detention time in storage basins). AB 2398 strikes a balance between consolidating and streamlining regulations and ensuring that regulations provide adequate water quality protection to receiving waters.

Further amendments to the bill are contemplated to address new fees for DPH; an administrative appeal mechanism for DPH permitting; and exempting aquifer storage and recovery projects (ASR) from the definition of waste.

Staff has solicited the input of the Metropolitan member agencies. The bill has the support of the Association of California Water Agencies (pending further clarifications on ASR), West Basin Municipal Water District, Three Valleys Municipal Water District, Upper San Gabriel Valley Municipal Water District, Las Virgenes Municipal Water District, California Association of Sanitation Agencies, among others. The only registered opposition, as of April 10, 2012, is the Russian River Watershed Protection Commission.

On April 10, AB 2398 passed the Assembly Water, Parks and Wildlife Committee on a 9 to 1 vote. On April 24, the bill passed the Assembly Environmental Safety and Toxic Materials Committee on a 8 to 1 vote. AB 2398 will be heard next in the Assembly Appropriations Committee.

A table, developed by the WaterReuse California, outlining the proposed changes to the recycled water permitting process is included in ([Attachment 3](#)).

## **Policy**

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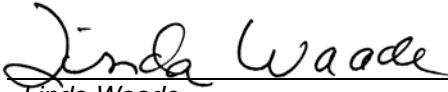
By Minute Item 48449, dated October 12, 2010, the Board adopted the Integrated Water Resources Plan Update.

By Minute Item 48915, dated December 13, 2011, the Board adopted the Legislative Strategy for 2012.

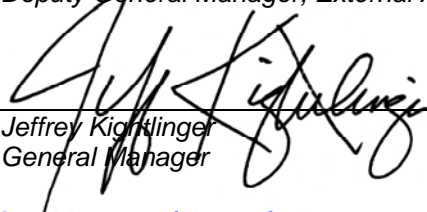
**Fiscal Impact**

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None

  
Linda Waade  
Deputy General Manager, External Affairs

5/2/2012  
Date

  
Jeffrey Kightlinger  
General Manager

5/2/2012  
Date

- [Attachment 1 – Metropolitan’s letter of support for AB 2398 \(Hueso\)](#)
- [Attachment 2 – Assembly Bill 2398 \(as amended April 16, 2012\)](#)
- [Attachment 3 – Assembly Bill 2398 permitting comparison table](#)

Ref# ea12618155



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

*Sacramento Legislative Office*

April 19, 2012

The Honorable Bob Wieckowski  
Member, California State Assembly  
State Capitol, Room 4162  
Sacramento, CA 95814

Re: AB 2398 (Hueso): Water Recycling – **SUPPORT**  
Assembly Environmental Safety and Toxic Materials Committee: April 24, 2012

Dear Assembly Member Wieckowski:

On behalf of The Metropolitan Water District of Southern California, I am pleased to express Metropolitan's support for AB 2398 by Assembly Member Ben Hueso. AB 2398 will help foster and advance workable strategies for recycled water project implementation throughout California. Water recycling is an important asset within our region's diverse local resource portfolio and helps bring greater water supply reliability to Southern California.

Regulatory requirements to develop water resources have expanded over time. The difficulties in securing the necessary environmental certification, documentation and permitting for recycled water projects are hindering local supply development. Metropolitan's board has long supported legislation and regulations that expand the range of recycled water uses consistent with protection of public health. We believe AB 2398 will establish a new system for regulating and permitting recycled water which is grounded in objective scientific review to maximize its use and protect public health and the environment. It makes sense to regulate consistently and fairly throughout the state so that sanitation districts and water suppliers understand the ground rules for utilizing recycled water and storing it in groundwater basins.

As the primary water supply wholesaler for Southern California, Metropolitan supports the development of local water supplies to ensure we meet the demands of the 19 million people in our 5,200 square-mile service territory. AB 2398 is consistent with that goal, and we offer our full support.

If you have any questions regarding Metropolitan's position, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Cole".

Kathleen Cole  
Legislative Representative

cc: Assembly Member Ben Hueso  
Members to the Assembly Environmental Safety and Toxic Materials Committee  
Robert Fredenburg, Consultant, Assembly Environmental Safety and Toxic Materials Committee  
John Kennedy, Consultant, Assembly Republican Caucus

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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**ASSEMBLY BILL****No. 2398**

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

February 24, 2012

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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, to add Chapter 20 (commencing with Section 26300) to Division 20 of, and to repeal Section 116815 of, the Health and Safety Code, *to add Section 21080.43 to the Public Resources 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, and 13276~~ 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

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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 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 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 Part 5 (commencing with Section
- 5 4999) of Division 2, Division 7 (commencing with Section 13000),
- 6 or Division 8 (commencing with Section 18000), of the Water
- 7 Code.
- 8 SEC. 2. Article 10.9 (commencing with Section 65601) of
- 9 Chapter 3 of Division 1 of Title 7 of the Government Code is
- 10 repealed.
- 11 SEC. 3. Section 28 of the Health and Safety Code is amended
- 12 to read:

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

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

6 5410. As used in this chapter:

7 (a) “Waste” includes sewage and any and all other waste  
8 substances, liquid, solid, gaseous, or radioactive, associated with  
9 human habitation, or of human or animal origin, or from any  
10 producing, manufacturing, or processing operation of whatever  
11 nature.

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

14 (c) “Waters of the state” means any water, surface or  
15 underground, including saline waters, within the boundaries of the  
16 state.

17 (d) “Contamination” means an impairment of the quality of the  
18 waters of the state by waste to a degree which creates a hazard to  
19 the public health through poisoning or through the spread of  
20 disease. “Contamination” shall include any equivalent effect  
21 resulting from the disposal of waste, whether or not waters of the  
22 state are affected.

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

27 (f) “Nuisance” means anything which: (1) is injurious to health,  
28 or is indecent or offensive to the senses, or an obstruction to the  
29 free use of property, so as to interfere with the comfortable  
30 enjoyment of life or property, and (2) affects at the same time an  
31 entire community or neighborhood, or any considerable number  
32 of persons, although the extent of the annoyance or damage  
33 inflicted upon individuals may be unequal, and (3) occurs during,  
34 or as a result of, the treatment or disposal of wastes.

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

38 SEC. 5. Section 5411 of the Health and Safety Code is amended  
39 to read:



1 5411. A person shall not discharge sewage or other waste, or  
2 the effluent of treated sewage or other waste, in any manner that  
3 will result in contamination, pollution or a nuisance. This section  
4 does not apply to the use of recycled water, as defined in Section  
5 18005 of the Water Code, and in accordance with the requirements  
6 of the Water Recycling Act of 2012 (Division 8 (commencing with  
7 Section 18000) of the Water Code) or the requirements of this  
8 division.

9 SEC. 6. Section 5411.5 of the Health and Safety Code is  
10 amended to read:

11 5411.5. (a) Any person who, without regard to intent or  
12 negligence, causes or permits any sewage or other waste, or the  
13 effluent of treated sewage or other waste to be discharged in or on  
14 any waters of the state, or discharged in or deposited where it is,  
15 or probably will be, discharged in or on any waters of the state, as  
16 soon as that person has knowledge of the discharge, shall  
17 immediately notify the local health officer or the director of  
18 environmental health of the discharge.

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

24 (c) The notification required by this section shall not apply to  
25 a discharge authorized by law and in compliance with waste  
26 discharge requirements or other requirements established by the  
27 appropriate regional water quality control board or the State Water  
28 Resources Control Board.

29 (d) This section does not apply to the use of recycled water, as  
30 defined in Section 18005 of the Water Code, and in accordance  
31 with the requirements of the Water Recycling Act of 2012  
32 (Division 8 (commencing with Section 18000) of the Water Code)  
33 or the requirements of this division.

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

36

37 CHAPTER 20. GROUNDWATER AQUIFER RECHARGE

38

39 26300. The Legislature finds and declares the following:

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1 (a) Advanced treated purified water is being used to recharge  
2 groundwater aquifers in California through direct injection of the  
3 aquifer.

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

8 (c) If the planned introduction of advanced treated purified water  
9 into a raw water supply can be demonstrated to be safe and feasible,  
10 its use will significantly aid in achieving the state board's recycling  
11 goals.

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

16 (e) This chapter is not intended to delay, invalidate, or reverse  
17 any study or project, or development of regulations by the  
18 department regarding the use of recycled water for potable reuse.

19 26301. As used in this chapter:

20 (a) "Advanced treated purified water recharge project" means  
21 a raw water augmentation project to recharge groundwater utilizing  
22 advanced treated purified water.

23 (b) "Advanced treated purified water," "potable reuse," "raw  
24 water," "raw water augmentation," "treated water augmentation,"  
25 and ~~"uniform drinking~~ "drinking water criteria" have the same  
26 meanings as those terms are defined in Section 18005 of the Water  
27 Code.

28 (c) "Fund" means the Augmentation Permit Fund created by  
29 subdivision (d) of Section 26304.

30 26302. Advanced treated purified water is a source of supply  
31 under Section 116550 and is not a waste under subdivision (d) of  
32 Section 13050 of the Water Code or subdivision (a) of Section  
33 5410.

34 26303. (a) The department may issue a permit for a raw water  
35 augmentation project to a producer, wholesaler, or supplier of  
36 recycled water, an entity responsible for groundwater  
37 replenishment, *a public water system*, or a combination thereof.

38 (b) A permit for a treated water augmentation project may be  
39 issued to a public water system.

1 (c) The department shall not issue a permit or amend a valid  
2 existing permit for a raw water augmentation or treated water  
3 augmentation project utilizing advanced treated purified water  
4 unless the department does all of the following:

5 (1) Performs an engineering evaluation that evaluates the  
6 proposed treatment technology and finds that the proposed  
7 technology will ensure that the advanced treated purified water  
8 meets the drinking water criteria established pursuant to Section  
9 18031 of the Water Code and poses no significant threat to public  
10 health. The department may require the submission of a  
11 preconstruction report for the purpose of determining compliance  
12 with the drinking water criteria.

13 (2) Consults with the state board or regional board regarding  
14 the consistency of the project with the applicable water quality  
15 control plan and other applicable plans and policies.

16 (3) Holds at least one duly noticed public hearing in the area  
17 where the advanced treated purified water is proposed to be used  
18 or supplied for human consumption and receives public testimony  
19 on that proposed use. The department shall make available to the  
20 public, not less than 30 days prior to the date of the first hearing  
21 held pursuant to this subdivision, the evaluations and findings  
22 made pursuant to paragraph (1) of subdivision (c). The department  
23 shall receive and consider any written comments and public  
24 testimony regarding the issuance of the proposed permit.

25 (d) (1) Notwithstanding subdivision (a), at any time before the  
26 drinking water criteria are adopted pursuant to Section 18031 of  
27 the Water Code, if the department, in consultation with the regional  
28 board and after a public hearing, finds a proposed raw water  
29 augmentation project will not degrade the quality of the receiving  
30 water as a source of water supply for domestic purposes, the  
31 department may permit the advanced treated purified water  
32 recharge project on a case-by-case basis.

33 (2) If the department makes the finding specified in paragraph  
34 (1), the department shall consider current and potential future  
35 public health consequences of the controlled recharge before  
36 permitting the project.

37 26304. (a) (1) Each person who applies for a permit in  
38 accordance with subdivision (a) or (b) of Section 26303 shall pay  
39 a permit filing fee according to a fee schedule established, and

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1 periodically adjusted as appropriate, by the department in  
2 conformance with this section.

3 (2) The department shall provide notice and a period of at least  
4 30 days for public comment prior to the adoption or adjustment  
5 of any permit filing fee as described in paragraph (1). The  
6 notification may be provided by mailing a draft of the proposed  
7 permit filing fee to each person who has requested notice of the  
8 specific item, or by posting a draft of the proposed fee on the  
9 official Internet Web site maintained by the department, and  
10 providing notice of that posting by electronic mail to each person  
11 who has requested notice.

12 (3) Any permit filing fee adopted by the department, or  
13 adjustments thereto, shall not be subject to Chapter 3.5  
14 (commencing with Section 11340) of Part 1 of Division 3 of Title  
15 2 of the Government Code, and shall remain in effect until revised  
16 by the department.

17 (b) A fee charged pursuant to this section shall equal the amount  
18 necessary to recoup the regulatory costs incurred by the department  
19 in issuing a permit pursuant to subdivision (a) or (b) of Section  
20 26303.

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

24 (d) The permit filing fees collected pursuant to this section shall  
25 be deposited in the Augmentation Permit Fund, which is hereby  
26 created. The money in the fund is available for expenditure by the  
27 department, upon appropriation by the Legislature, solely for the  
28 purposes specified in subdivision (b).

29 26305. (a) (1) Each person who is subject to a permit as  
30 described in subdivision (a) or (b) of Section 26303, or a water  
31 recycling permit issued by the state board or regional board  
32 pursuant to Section 18210 or 18212 of the Water Code, shall submit  
33 an annual fee to the department according to a fee schedule  
34 established, and periodically adjusted as appropriate, by the  
35 department in conformance with this section.

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

38 (3) The department shall provide notice and a period of at least  
39 30 days for public comment prior to the adoption or adjustment  
40 of any annual fee, as described in paragraph (1), or timetable, as

1 described in paragraph (2). The notification may be provided by  
2 mailing a draft of the proposed fee or timetable, as applicable, to  
3 each person who has requested notice of the specific item, or by  
4 posting a draft of the proposed fee or timetable, as applicable, on  
5 the official Internet Web site maintained by the department, and  
6 providing notice of that posting by electronic mail to each person  
7 who has requested notice.

8 (4) Any annual fee or timetable adopted by the department, or  
9 adjustments thereto, shall not be subject to the requirements of  
10 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
11 3 of Title 2 of the Government Code, and shall remain in effect  
12 until revised by the department.

13 (b) The total amount of annual fees collected pursuant to this  
14 section shall equal that amount necessary to recoup the recoverable  
15 costs, as described in subdivision (c) of this section, incident to  
16 performing the necessary investigations, inspections, and audits  
17 for permits for the use of advanced treated purified water and the  
18 administrative enforcement and adjudication of those permits, and  
19 consultation with the state board or regional board regarding  
20 permits issued by the state board or a regional board pursuant to  
21 Section 18210 or 18212 of the Water Code.

22 (c) Recoverable costs include those costs incurred by the  
23 department in reviewing monitoring reports; prescribing permit  
24 terms and monitoring requirements; enforcing and evaluating  
25 compliance with permits; analyzing laboratory samples; reviewing  
26 documents prepared for the purpose of regulating permits for the  
27 use of advanced treated purified water; and administrative costs  
28 incurred in connection with carrying out these actions.

29 (d) The fees collected pursuant to this section shall be deposited  
30 in the Augmentation Permit Fund.

31 SEC. 8. Section 116815 of the Health and Safety Code is  
32 repealed.

33 SEC. 9. Section 21080.43 is added to the Public Resources  
34 Code, to read:

35 21080.43. (a) This division does not apply to any project that  
36 involves only the repiping, redesign, or use of recycled water for  
37 irrigation of residential landscaping, floor trap priming cooling,  
38 towers, air-conditioning devices, or toilet and urinal flushing in  
39 structures necessary to comply with a requirement prescribed by

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1 *a public agency under Section 18041, 18042, or 18043 of the Water*  
2 *Code.*

3 *(b) The exemption in subdivision (a) does not apply to any*  
4 *project to develop recycled water, to construct conveyance facilities*  
5 *for recycled water, or any other project not specified in subdivision*  
6 *(a).*

7 ~~SEC. 9.~~

8 *SEC. 10.* Section 1502 of the Public Utilities Code is amended  
9 to read:

10 1502. (a) As used in this chapter, “political subdivision” means  
11 a county, city and county, city, municipal water district, county  
12 water district, irrigation district, public utility district, California  
13 water district, or any other public corporation.

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

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

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

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

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

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

30 ~~SEC. 10.~~

31 *SEC. 11.* Chapter 6 (commencing with Section 460) of Division  
32 1 of the Water Code is repealed.

33 ~~SEC. 11.~~

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

35 1058.5. (a) This section applies to any emergency regulation  
36 adopted by the board for which the board makes both of the  
37 following findings:

38 (1) The emergency regulation is adopted to prevent the waste,  
39 unreasonable use, unreasonable method of use, or unreasonable

1 method of diversion, of water, to promote water recycling, or to  
2 promote water conservation.

3 (2) The emergency regulation is adopted in response to  
4 conditions which exist, or are threatened, in a critically dry year  
5 immediately preceded by two or more consecutive dry or critically  
6 dry years.

7 (b) Notwithstanding Sections 11346.1 and 11349.6 of the  
8 Government Code, any findings of emergency adopted by the  
9 board, in connection with the adoption of an emergency regulation  
10 to which this section applies, are not subject to review by the Office  
11 of Administrative Law.

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

17 ~~SEC. 12.~~

18 ~~SEC. 13.~~ Section 10616.5 of the Water Code is amended to  
19 read:

20 10616.5. "Recycled water" has the same meaning as defined  
21 in subdivision (n) of Section 13050.

22 ~~SEC. 13.~~ Section 10781 of the Water Code is repealed:

23 ~~SEC. 14.~~ Section 10781 is added to the Water Code, to read:

24 ~~10781. The Legislature finds and declares the following:~~

25 ~~(a) Development of dependable and scientifically valid~~  
26 ~~information in a cost-effective manner regarding monitoring of~~  
27 ~~the state's groundwater supplies is critical to the future~~  
28 ~~management of local groundwater supplies for public health and~~  
29 ~~safety.~~

30 ~~(b) The state board adopted the Recycled Water Policy~~  
31 ~~(Resolution 2009-0011) in order to increase sustainable local water~~  
32 ~~supplies available for meeting existing and future beneficial uses~~  
33 ~~by increasing the acceptance and use of recycled water to recharge~~  
34 ~~local groundwater basins.~~

35 ~~(c) The Recycled Water Policy calls for development of salt~~  
36 ~~and nutrient management plans for groundwater basins and~~  
37 ~~subbasins throughout the state within five years. As part of these~~  
38 ~~salt and nutrient management plans, the state board requires~~  
39 ~~monitoring of emerging constituents and constituents of emerging~~  
40 ~~concern (emerging constituents). The state board intends to~~

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1 ~~incorporate these plans and emerging constituent monitoring~~  
2 ~~requirements into its regional water quality control plans as part~~  
3 ~~of the implementation plans, pursuant to Section 13242.~~

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

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

11 ~~10781.1. In order to improve comprehensive groundwater~~  
12 ~~monitoring and increase the availability to the public of information~~  
13 ~~about groundwater contamination, the state board shall do all of~~  
14 ~~the following:~~

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

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



- 1 ~~13242). The state and regional boards shall rely on this statewide~~  
2 ~~database of ambient groundwater quality to the extent practicable.~~  
3 ~~(e) (1) Create an interagency task force for all of the following~~  
4 ~~purposes:~~  
5 ~~(A) Identifying actions necessary to establish the monitoring~~  
6 ~~program.~~  
7 ~~(B) Identifying measures to increase coordination among state~~  
8 ~~and federal agencies that collect information regarding groundwater~~  
9 ~~contamination in the state.~~  
10 ~~(C) Designing a database capable of supporting the monitoring~~  
11 ~~program that is compatible with the state board's geotracker~~  
12 ~~database.~~  
13 ~~(D) Assessing the scope and nature of necessary monitoring~~  
14 ~~enhancements.~~  
15 ~~(E) Identifying the cost of any recommended measures.~~  
16 ~~(F) Identifying the means by which to make monitoring~~  
17 ~~information available to the public.~~  
18 ~~(2) The interagency task force shall consist of a representative~~  
19 ~~of each of the following entities:~~  
20 ~~(A) The state board.~~  
21 ~~(B) The department.~~  
22 ~~(C) The State Department of Public Health.~~  
23 ~~(D) The Department of Pesticide Regulation.~~  
24 ~~(E) The Department of Toxic Substances Control.~~  
25 ~~(F) The Department of Food and Agriculture.~~  
26 ~~(d) Convene an advisory committee to the interagency task~~  
27 ~~force, with a membership that includes all of the following:~~  
28 ~~(1) Two representatives of appropriate federal agencies, if those~~  
29 ~~agencies wish to participate.~~  
30 ~~(2) Two representatives of public water systems, one of which~~  
31 ~~shall be a representative of a retail water supplier.~~  
32 ~~(3) Two representatives of environmental organizations.~~  
33 ~~(4) Two representatives of the business community.~~  
34 ~~(5) One representative of a local agency that is currently~~  
35 ~~implementing a plan pursuant to Part 2.75 (commencing with~~  
36 ~~Section 10750).~~  
37 ~~(6) Two representatives of agriculture.~~  
38 ~~(7) Two representatives from groundwater management entities.~~

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1 ~~(e) (1) The members of the advisory committee may receive a~~  
2 ~~per diem allowance for each day's attendance at a meeting of the~~  
3 ~~advisory committee.~~

4 ~~(2) The members of the advisory committee may be reimbursed~~  
5 ~~for actual and necessary travel expenses incurred in connection~~  
6 ~~with their official duties.~~

7 ~~SEC. 16.~~

8 *SEC. 14.* Section 13050 of the Water Code is amended to read:

9 13050. As used in this division:

10 (a) "State board" means the State Water Resources Control  
11 Board.

12 (b) "Regional board" means any California regional water  
13 quality control board for a region as specified in Section 13200.

14 (c) "Person" includes any city, county, district, the state, and  
15 the United States, to the extent authorized by federal law.

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

22 (e) "Waters of the state" means any surface water or  
23 groundwater, including saline waters, within the boundaries of the  
24 state.

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

31 (g) "Quality of the water" refers to chemical, physical,  
32 biological, bacteriological, radiological, and other properties and  
33 characteristics of water which affect its use.

34 (h) "Water quality objectives" means the limits or levels of  
35 water quality constituents or characteristics which are established  
36 for the reasonable protection of beneficial uses of water or the  
37 prevention of nuisance within a specific area.

38 (i) "Water quality control" means the regulation of any activity  
39 or factor which may affect the quality of the waters of the state

1 and includes the prevention and correction of water pollution and  
2 nuisance.

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

6 (1) Beneficial uses to be protected.

7 (2) Water quality objectives.

8 (3) A program of implementation needed for achieving water  
9 quality objectives.

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

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

19 (A) The waters for beneficial uses.

20 (B) Facilities which serve these beneficial uses.

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

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

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

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

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

33 (n) “Recycled water” means water which, as a result of treatment  
34 of waste, is suitable for a direct beneficial use or a controlled use  
35 that would not otherwise occur and is therefor considered a  
36 valuable resource.

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

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

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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.~~

4 *SEC. 15.* Section 13167.5 of the Water Code is amended to  
5 read:

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

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

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

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

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

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

29 ~~SEC. 18.~~

30 *SEC. 16.* Section 13260 of the Water Code is amended to read:

31 13260. (a) Each of the following persons shall file with the  
32 appropriate regional board a report of the discharge, containing  
33 the information that may be required by the regional board:

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

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

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1 (3) A person operating, or proposing to construct, an injection  
2 well.

3 (b) No report of waste discharge need be filed pursuant to  
4 subdivision (a) if the requirement is waived pursuant to Section  
5 13269.

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

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

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

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

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

33 (i) The size of the operation.

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

36 (iii) Any applicable waste discharge requirement or conditional  
37 waiver of a waste discharge requirement.

38 (iv) The type and amount of discharge from the operation.

39 (v) The pricing mechanism of the commodity produced.

1 (vi) Any compliance costs borne by the operation pursuant to  
2 state and federal water quality regulations.

3 (vii) Whether the operation participates in a quality assurance  
4 program certified by a regional water quality control board, the  
5 state board, or a federal water quality control agency.

6 (2) (A) Subject to subparagraph (B), the fees collected pursuant  
7 to this section shall be deposited in the Waste Discharge Permit  
8 Fund, which is hereby created. The money in the fund is available  
9 for expenditure by the state board, upon appropriation by the  
10 Legislature, solely for the purposes of carrying out this division.

11 (B) (i) Notwithstanding subparagraph (A), the fees collected  
12 pursuant to this section from stormwater dischargers that are  
13 subject to a general industrial or construction stormwater permit  
14 under the national pollutant discharge elimination system (NPDES)  
15 shall be separately accounted for in the Waste Discharge Permit  
16 Fund.

17 (ii) Not less than 50 percent of the money in the Waste  
18 Discharge Permit Fund that is separately accounted for pursuant  
19 to clause (i) is available, upon appropriation by the Legislature,  
20 for expenditure by the regional board with jurisdiction over the  
21 permitted industry or construction site that generated the fee to  
22 carry out stormwater programs in the region.

23 (iii) Each regional board that receives money pursuant to clause  
24 (ii) shall spend not less than 50 percent of that money solely on  
25 stormwater inspection and regulatory compliance issues associated  
26 with industrial and construction stormwater programs.

27 (3) A person who would be required to pay the annual fee  
28 prescribed by paragraph (1) for waste discharge requirements  
29 applicable to discharges of solid waste, as defined in Section 40191  
30 of the Public Resources Code, at a waste management unit that is  
31 also regulated under Division 30 (commencing with Section 40000)  
32 of the Public Resources Code, shall be entitled to a waiver of the  
33 annual fee for the discharge of solid waste at the waste management  
34 unit imposed by paragraph (1) upon verification by the state board  
35 of payment of the fee imposed by Section 48000 of the Public  
36 Resources Code, and provided that the fee established pursuant to  
37 Section 48000 of the Public Resources Code generates revenues  
38 sufficient to fund the programs specified in Section 48004 of the  
39 Public Resources Code and the amount appropriated by the  
40 Legislature for those purposes is not reduced.

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

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

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

33 (g) The state board shall adopt regulations setting forth  
34 reasonable time limits within which the regional board shall  
35 determine the adequacy of a report of waste discharge submitted  
36 under this section.

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

39 (i) The regulations adopted by the state board pursuant to  
40 subdivision (f) shall include a provision that annual fees shall not



1 be imposed on those who pay fees under the national pollutant  
2 discharge elimination system until the time when those fees are  
3 again due, at which time the fees shall become due on an annual  
4 basis.

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

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

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

30 (2) A report that evaluates the potential of the discharge of the  
31 mining waste to produce, over the long term, acid mine drainage,  
32 the discharge or leaching of heavy metals, or the release of other  
33 hazardous substances.

34 ~~SEC. 19.~~

35 *SEC. 17.* Section 13263 of the Water Code is amended to read:

36 13263. (a) The regional board, after any necessary hearing,  
37 shall prescribe requirements as to the nature of any proposed  
38 discharge, existing discharge, or material change in an existing  
39 discharge, except discharges into a community sewer system, with  
40 relation to the conditions existing in the disposal area or receiving

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1 waters upon, or into which, the discharge is made or proposed.  
2 The requirements shall implement any relevant water quality  
3 control plans that have been adopted, and shall take into  
4 consideration the beneficial uses to be protected, the water quality  
5 objectives reasonably required for that purpose, other waste  
6 discharges, the need to prevent nuisance, and the provisions of  
7 Section 13241.

8 (b) A regional board, in prescribing requirements, need not  
9 authorize the utilization of the full waste assimilation capacities  
10 of the receiving waters.

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

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

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

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

22 (g) No discharge of waste into the waters of the state, whether  
23 or not the discharge is made pursuant to waste discharge  
24 requirements, shall create a vested right to continue the discharge.  
25 All discharges of waste into waters of the state are privileges, not  
26 rights.

27 (h) The state board or a regional board may prescribe general  
28 waste discharge requirements for a category of discharges if the  
29 state board or that regional board finds or determines that all of  
30 the following criteria apply to the discharges in that category:

31 (1) The discharges are produced by the same or similar  
32 operations.

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

34 (3) The discharges require the same or similar treatment  
35 standards.

36 (4) The discharges are more appropriately regulated under  
37 general discharge requirements than individual discharge  
38 requirements.

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

1 (j) The use of recycled water, as defined in this division,  
2 permitted prior to ~~December 31, 2012~~ *January 1, 2013*, utilizing  
3 water recycling requirements, master recycling permits, or waste  
4 discharge requirements issued pursuant to this division shall be  
5 permitted in accordance with Division 8 (commencing with Section  
6 18000) or Chapter 20 (commencing with Section 26300) of  
7 Division 20 of the Health and Safety Code, as applicable, upon  
8 expiration or modification of the water recycling requirements,  
9 master recycling permits, or waste discharge requirements, or upon  
10 agreement by the appropriate regional board and permitted entity,  
11 whichever is sooner.

12 (k) The use of recycled water, as defined in this division,  
13 permitted prior to ~~December 31, 2012~~ *January 1, 2013*, utilizing  
14 water recycling requirements, master recycling permits, or waste  
15 discharge requirements issued pursuant to this division shall be  
16 complied with, administered, and enforced in accordance with  
17 those water recycling requirements, master recycling permits, or  
18 waste discharge requirements issued pursuant to this division.

19 ~~SEC. 20.~~

20 *SEC. 18.* Section 13271 of the Water Code is amended to read:

21 13271. (a) (1) Except as provided by subdivision (b), any  
22 person who, without regard to intent or negligence, causes or  
23 permits any hazardous substance or sewage to be discharged in or  
24 on any waters of the state, or discharged or deposited where it is,  
25 or probably will be, discharged in or on any waters of the state,  
26 shall, as soon as (A) that person has knowledge of the discharge,  
27 (B) notification is possible, and (C) notification can be provided  
28 without substantially impeding cleanup or other emergency  
29 measures, immediately notify the California Emergency  
30 Management Agency of the discharge in accordance with the spill  
31 reporting provision of the state toxic disaster contingency plan  
32 adopted pursuant to Article 3.7 (commencing with Section 8574.16)  
33 of Chapter 7 of Division 1 of Title 2 of the Government Code.

34 (2) The California Emergency Management Agency shall  
35 immediately notify the appropriate regional board, the local health  
36 officer, and the director of environmental health of the discharge.  
37 The regional board shall notify the state board as appropriate.

38 (3) Upon receiving notification of a discharge pursuant to this  
39 section, the local health officer and the director of environmental  
40 health shall immediately determine whether notification of the

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1 public is required to safeguard public health and safety. If so, the  
2 local health officer and the director of environmental health shall  
3 immediately notify the public of the discharge by posting notices  
4 or other appropriate means. The notification shall describe  
5 measures to be taken by the public to protect the public health.

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

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

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

21 (e) For substances listed as hazardous wastes or hazardous  
22 material pursuant to Section 25140 of the Health and Safety Code,  
23 the state board, in consultation with the Department of Toxic  
24 Substances Control, shall by regulation establish reportable  
25 quantities for purposes of this section. The regulations shall be  
26 based on what quantities should be reported because they may  
27 pose a risk to public health or the environment if discharged to  
28 groundwater or surface water. Regulations need not set reportable  
29 quantities on all listed substances at the same time. Regulations  
30 establishing reportable quantities shall not supersede waste  
31 discharge requirements or water quality objectives adopted  
32 pursuant to this division, and shall not supersede or affect in any  
33 way the list, criteria, and guidelines for the identification of  
34 hazardous wastes and extremely hazardous wastes adopted by the  
35 Department of Toxic Substances Control pursuant to Chapter 6.5  
36 (commencing with Section 25100) of Division 20 of the Health  
37 and Safety Code. The regulations of the Environmental Protection  
38 Agency for reportable quantities of hazardous substances for  
39 purposes of the federal Comprehensive Environmental Response,  
40 Compensation, and Liability Act of 1980, as amended (42 U.S.C.

1 Sec. 9601 et seq.) shall be in effect for purposes of the enforcement  
2 of this section until the time that the regulations required by this  
3 subdivision are adopted.

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

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

20 (g) Except as otherwise provided in this section and Section  
21 8589.7 of the Government Code, a notification made pursuant to  
22 this section shall satisfy any immediate notification requirement  
23 contained in any permit issued by a permitting agency. When  
24 notifying the California Emergency Management Agency, the  
25 person shall include all of the notification information required in  
26 the permit.

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

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

35 *SEC. 19. Section 13276 is added to the Water Code, to read:*

36 *13276. (a) Any person who, without regard to intent or*  
37 *negligence, causes or permits an unauthorized discharge of 1,000*  
38 *gallons or more of recycled water, as defined in subdivision (c),*  
39 *in or on any waters of the state, or causes or permits an*  
40 *unauthorized discharge to be discharged where it is, or probably*

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1 will be, discharged in or on any waters of the state, as soon as (1)  
 2 that person has knowledge of the discharge, (2) notification is  
 3 possible, and (3) notification can be provided without substantially  
 4 impeding cleanup or other emergency measures, shall immediately  
 5 notify the appropriate regional board.

6 (b) For the purposes of this section, an unauthorized discharge  
 7 means a discharge not authorized by waste discharge requirements  
 8 pursuant to Article 4 (commencing with Section 13260), or water  
 9 reclamation requirements, or a master reclamation permit issued  
 10 pursuant to this division.

11 (c) For purposes of this section, “recycled water” means  
 12 “recycled water,” as defined in subdivision (n) of Section 13050,  
 13 which is treated at a level less than “disinfected tertiary recycled  
 14 water,” as defined or described by the State Department of Public  
 15 Health.

16 (d) The requirements in this section supplement, and shall not  
 17 supplant, any other provision of law.

18 ~~SEC. 21.~~

19 SEC. 20. Chapter 7 (commencing with Section 13500) of  
 20 Division 7 of the Water Code is repealed.

21 ~~SEC. 22.~~

22 SEC. 21. Chapter 7 (commencing with Section 13500) is added  
 23 to Division 7 of the Water Code, to read:

24

25 CHAPTER 7. WASTE WELLS

26

27 13500. (a) A person shall not construct, maintain, or use any  
 28 waste well extending to or into a subterranean water-bearing  
 29 stratum that is used or intended to be used as, or is suitable for, a  
 30 source of water supply for domestic purposes.

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

34 ~~SEC. 23.~~

35 SEC. 22. Chapter 7.3 (commencing with Section 13560) of  
 36 Division 7 of the Water Code is repealed.

37 ~~SEC. 24.~~

38 SEC. 23. Chapter 7.5 (commencing with Section 13575) of  
 39 Division 7 of the Water Code is repealed.

1     ~~SEC. 25.~~

2     SEC. 24. Division 8 (commencing with Section 18000) is added  
3 to the Water Code, to read:

4

5

DIVISION 8. WATER RECYCLING

6

7

CHAPTER 1. GENERAL

8

9

Article 1. Short Title

10

11     18000. This division shall be known and may be cited as the  
12 Water Recycling Act of 2012.

13

14

Article 2. Findings and Declarations

15

16     18001. The Legislature hereby finds and declares all of the  
17 following:

18

19     (a) The State of California is subject to periodic drought  
20 conditions, and the development of traditional water resources in

21

22     (b) The people of the state have a primary interest in the  
23 development of new basic water supplies, as that term is used in

24

25     Chapter 5 (commencing with Section 12880) of Part 6 of Division  
26 6, including maximizing recycled water use to supplement existing

27

28     water supplies and to minimize the impacts of growing demand  
29 for new water on sensitive natural water bodies. As such, the state

30

31     is to encourage development of water recycling facilities so that  
32 recycled water may be made available to help meet the water

33

34     requirements of the state.  
35     (c) Recycled water has been proven to be a safe, cost-effective,  
36 and reliable method of helping to meet California's water supply

37

38     needs.  
39     (d) A substantial portion of the future water requirements of  
40 this state may be economically met by the beneficial use of

39

40     recycled water. Recycled water is a key and necessary component  
for California's long-term reliable water supply, and complements  
demand management, improvements in efficiency, and supply  
augmentation strategies.  
   (e) The benefits of using recycled water include, but are not  
limited to, a reduced demand for water in the Sacramento-San

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1 Joaquin Delta that is otherwise needed to maintain water quality  
2 and support regional economies of the state; reduced discharges  
3 of waste into inland surface waters and the ocean; the enhancement  
4 and protection of groundwater basins, recreation, fisheries,  
5 wetlands, and riparian areas; a reduction in greenhouse gas  
6 emissions; the protection of investments in agriculture, greenbelts,  
7 and recreation; the provision of jobs; and enhancement of the  
8 state's economy through the development and implementation of  
9 recycled water projects.

10 (f) In accordance with Section 2 of Article X of the California  
11 Constitution, in order to put the water resources of the state to  
12 beneficial use to the fullest extent of which they are capable, the  
13 use of potable water or raw water from a natural stream or water  
14 course in this state is unreasonable and a waste of such water where  
15 recycled water is reasonably available in accordance with this  
16 division for the beneficial use to be served. Any use of recycled  
17 water in lieu of water suitable for potable domestic use is, to the  
18 extent of the recycled water so used, deemed to constitute a  
19 reasonable beneficial use of water, and the use of recycled water  
20 shall not cause any loss or diminution of any existing water right.

21 (g) The State Department of Public Health establishes uniform  
22 water recycling criteria for each varying type of use of recycled  
23 water where the use involves the protection of public health.

24 (h) Recycled water can be produced using different levels of  
25 treatment, as necessary and appropriate for the beneficial use to  
26 be made, and for the protection of public health and the  
27 environment.

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

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

37 (k) It is the intent of the Legislature that the provisions of this  
38 division shall be construed to encourage the development by local  
39 public agencies and water suppliers of recycled water and its  
40 potential for use as a water source consistent with the goals of



1 Chapter 3 (commencing with Section 10608) of Part 2.55 of  
2 Division 6.

3 (l) It is the intent of the Legislature to establish a clear statutory  
4 framework for the permitting and regulation of recycled water.  
5 This division shall fully cover the requirements, permitting, and  
6 enforcement applicable to recycled water other than advanced  
7 treated purified water. Advanced treated purified water, as defined  
8 in this division, shall be permitted as a source of supply in  
9 accordance with Sections 26302 and 26303 of the Health and  
10 Safety Code.

11 (m) The recycling of water, the supply, storage, or use of  
12 recycled water in accordance with the requirements of this division  
13 shall not be considered a discharge of waste or sewage for purposes  
14 of Section 13264 or 13271, or a nuisance, ~~except as provided in~~  
15 ~~this division~~ *as defined in subdivision (m) of Section 13050.*

### 16 Article 3. Definitions

17  
18  
19 18005. As used in this division:

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

26 (b) “Advanced treated purified water recharge project” means  
27 a raw water augmentation project to recharge groundwater using  
28 surface application or direct injection of advanced treated purified  
29 water.

30 (c) “Customer” means a person or entity that purchases water  
31 from a retail water supplier.

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

36 (e) “Drinking water criteria” means the standards promulgated  
37 by the State Department of Public Health specifying the maximum  
38 levels of constituents in soil aquifer treated purified water and  
39 advanced treated purified water used for potable reuse together  
40 with means for reliably treating the recycled water, which, in the

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1 judgment of the State Department of Public Health, will result in  
2 drinking water that is safe for the uses to be made.

3 (f) “Entity responsible for groundwater replenishment” means  
4 any person or entity authorized by statute or court order to manage  
5 a groundwater basin and acquire water for groundwater  
6 replenishment.

7 (g) “Groundwater recharge” means the augmentation of  
8 groundwater, by natural or artificial means, with surface water or  
9 recycled water.

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

14 (i) “Incidental runoff” means unintended minor amounts of  
15 runoff from recycled water use areas, such as unintended, minimal  
16 overspray from sprinklers that escapes the designated recycled  
17 water use area.

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

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

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

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

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

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

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

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

39 (r) (1) “Recycled water” means water produced by the treatment  
40 of municipal wastewater in accordance with applicable

1 requirements, that is suitable for a direct beneficial use or a  
2 controlled use that would not otherwise occur and is therefore  
3 considered a valuable resource. For purposes of this division,  
4 recycled water includes the following:

5 (A) “Soil aquifer treated purified water” and “advanced treated  
6 purified water,” as defined in this section.

7 (B) Wastewater treated as “disinfected tertiary recycled water,”  
8 as defined or described by the State Department of Public Health.

9 (C) Wastewater receiving advanced treatment beyond disinfected  
10 tertiary recycled water but that is not advanced treated or soil  
11 aquifer treated purified water as defined in this section.

12 (2) “Recycled water” as defined in this section shall not be  
13 considered “waste” as defined in subdivision (d) of Section 13050,  
14 “waste” as defined in subdivision (a) of Section 5410 of the Health  
15 and Safety Code, or “sewage” or the “effluent of treated sewage  
16 or other waste” as used in Section 5411 of the Health and Safety  
17 Code.

18 (s) “Recycled water groundwater recharge project” means  
19 groundwater recharge utilizing surface application of recycled  
20 water that is not advanced treated purified water.

21 (t) “Recycled water producer” means any local public or private  
22 entity that produces recycled water in accordance with this division.

23 (u) “Recycled water wholesaler” means any local public entity  
24 that distributes recycled water to retail water suppliers and that  
25 has constructed, or is constructing, a recycled water distribution  
26 system.

27 (v) “Regional board” means any California regional water  
28 quality control board for a region, as specified in Section 13200.

29 (w) “Retail water supplier” means any local entity, including a  
30 public agency, city, county, or private water company that provides  
31 retail water service.

32 (x) “Soil aquifer treated purified water” means wastewater  
33 treated as “disinfected tertiary recycled water,” as defined or  
34 described by the State Department of Public Health, that has also  
35 undergone treatment ~~in unsaturated and saturated soil conditions~~  
36 *underground*.

37 (y) “State board” means the State Water Resources Control  
38 Board.

39 (z) “Storm-induced overflow” means the displacement of water  
40 from a nonpotable impoundment containing recycled water by the

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1 inflow of rainwater or stormwater runoff. Overflow is not  
2 considered storm induced if it is due to intentional release or due  
3 to failure to cease the placement of recycled water into the  
4 impoundment during a storm or while inflow from a storm is  
5 continuing.

6 (aa) “Structure” or “structures” means commercial, retail, and  
7 office buildings, theaters, auditoriums, condominium projects,  
8 schools, hotels, apartments, barracks, dormitories, jails, prisons  
9 and reformatories, and other structures as determined by the State  
10 Department of Public Health.

11 (ab) “Treated water augmentation” means the planned  
12 introduction of recycled water into potable water.

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

18 (ad) “Wastewater” means water that has been used for domestic,  
19 commercial, industrial, or other purposes and discarded through  
20 a pipe or other conveyance to a ~~publicly owned~~ treatment works.  
21 *For purposes of this division, wastewater does not include water*  
22 *that has been used solely for industrial purposes before being*  
23 *discarded.*

24 (ae) “Waters of the state” means any surface water or  
25 groundwater, including saline waters, within the boundaries of the  
26 state.

27

28

## CHAPTER 2. RECYCLING GOALS

29

30 18010. (a) This division establishes a statewide goal to recycle  
31 a total of 1.5 million acre-feet of water per year by ~~the year~~ 2020  
32 and 2.5 million acre-feet of water per year by ~~the year~~ 2030.

33 (b) The state board and regional boards, the State Department  
34 of Public Health, the Public Utilities Commission, the department,  
35 and other state agencies shall exercise the authority and discretion  
36 granted to them by the Legislature to encourage the use of recycled  
37 water and meet the goals established in subdivision (a).

38 (c) The use of recycled water in accordance with this division  
39 or Chapter 20 (commencing with Section 26300) of Division 20  
40 of the Health and Safety Code, and the use of recycled water as

1 defined in subdivision (n) of Section 13050, shall count toward  
2 meeting the water recycling goals established in subdivision (a).

3

4

CHAPTER 3. GENERAL PROVISIONS

5

6 18015. (a) An action authorized pursuant to this division shall  
7 be consistent, to the extent applicable, with the federal Clean Water  
8 Act (33 U.S.C. Sec. 1251 et seq.) and the federal Safe Drinking  
9 Water Act (42 U.S.C. Sec. 300f et seq.).

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

12 18016. The state board and the State Department of Public  
13 Health may each adopt regulations to carry out their powers and  
14 duties under this division. Any regulations adopted shall be  
15 consistent with this division, including achievement of the water  
16 recycling goals set forth in Section 18010.

17 18017. The State Department of Public Health may accept  
18 public or private funds from any source, and may expend these  
19 funds, upon appropriation by the Legislature, for the purposes of  
20 this division.

21

CHAPTER 4. USES OF RECYCLED WATER

22

23

Article 1. Uniform Water Recycling Criteria for Nonpotable  
Uses

24

25

26

27 18020. (a) The State Department of Public Health shall  
28 establish and maintain uniform water recycling criteria for each  
29 varying type of nonpotable use of recycled water where the use  
30 requires protection of public health.

31

32

33

34

(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.

35

36

Article 2. Drinking Water Criteria for Potable Uses

37

38

18030. The Legislature finds and declares the following:

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— 34 —

1 (a) The use of recycled water for potable reuse is critical to  
2 achieving the state's water recycling goals established in Section  
3 18010 for increased use of recycled water in the state.

4 (b) California is a national leader in potable reuse. Potable reuse  
5 projects have been permitted in California and have delivered safe  
6 water to customers since 1962, using a combination of *engineered*  
7 *and natural* treatment processes ~~and natural barriers~~. Ongoing  
8 advancements in *these treatment technologies processes* have  
9 increased the opportunities to develop potable reuse projects that  
10 have been proven to *provide effective barriers and* reliably deliver  
11 safe water to customers.

12 (c) ~~Treatment~~ *Engineered and natural treatment processes or*  
13 ~~natural barriers, such as soil aquifer treatment,~~ selected for  
14 individual potable reuse projects, can purify water. The ~~particular~~  
15 *appropriate* process for each reuse project should be selected based  
16 ~~on local hydrological and geological conditions,~~ *or combination*  
17 *of processes, should consider the type of reuse project and*  
18 *site-specific conditions.*

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

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

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

30 18031. (a) On or before December 31, 2013, the State  
31 Department of Public Health shall adopt drinking water criteria  
32 for groundwater recharge projects utilizing recycled water.

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

38 (2) Prior to adopting drinking water criteria for the use of  
39 advanced treated purified water for raw water augmentation  
40 pursuant to paragraph (1), the State Department of Public Health

1 shall submit the proposed criteria to the expert panel convened  
2 pursuant to subdivision (a) of Section 18035. The expert panel  
3 shall review the proposed criteria and shall make a finding as to  
4 whether, in its expert opinion, the proposed criteria would  
5 adequately protect public health.

6 (3) The State Department of Public Health shall not adopt  
7 drinking water criteria for the use of advanced treated purified  
8 water for raw water augmentation pursuant to paragraph (1) unless  
9 and until the expert panel adopts a finding that the proposed criteria  
10 would adequately protect public health.

11 (c) Adoption of drinking water criteria by the State Department  
12 of Public Health is subject to the requirements of Chapter 3.5  
13 (commencing with Section 11340) of Part 1 of Division 3 of Title  
14 2 of the Government Code.

15 18032. (a) (1) The State Department of Public Health shall  
16 investigate and report to the Legislature on the feasibility of  
17 developing drinking water criteria for potable reuse involving  
18 treated water augmentation.

19 (2) The State Department of Public Health shall complete a  
20 public review draft of its report by June 30, 2016. The State  
21 Department of Public Health shall provide the public not less than  
22 45 days to review and comment on the public review draft.

23 (3) The State Department of Public Health shall provide a final  
24 report to the Legislature by December 31, 2016. The State  
25 Department of Public Health shall make the final report available  
26 to the public.

27 (b) In conducting the investigation pursuant to subdivision (a),  
28 the State Department of Public Health shall examine all of the  
29 following:

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

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

34 (3) Available information on health effects.

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

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

4 (6) Any other scientific or technical issues that the State  
5 Department of Public Health determines to be necessary, including,  
6 but not limited to, the need for additional research.

7 (c) (1) Notwithstanding Section 10231.5 of the Government  
8 Code, the requirement for submitting a report imposed under  
9 paragraph (3) of subdivision (a) is inoperative on December 31,  
10 2020.

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

14 18033. In performing its investigation of the feasibility of  
15 developing the drinking water criteria for potable reuse involving  
16 treated water augmentation, the State Department of Public Health  
17 shall consider all of the following:

18 (a) Recommendations from the expert panel appointed pursuant  
19 to paragraph (1) of subdivision (a) of Section 18035.

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

23 (c) Regulations and guidelines for these activities from  
24 jurisdictions in other states, the federal government, or other  
25 countries.

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

29 (e) Results of the investigation undertaken pursuant to Section  
30 18032.

31 (f) Water quality and health risk assessments associated with  
32 existing potable water supplies subject to discharges from  
33 municipal wastewater, stormwater, and agricultural runoff.

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



1 developing drinking water criteria for treated water augmentation  
2 pursuant to Section 18032.

3 (b) (1) A written report submitted pursuant to subdivision (a)  
4 shall be submitted in compliance with Section 9795 of the  
5 Government Code.

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

8 18035. (a) (1) The State Department of Public Health shall  
9 convene and administer an expert panel for the purposes of advising  
10 the State Department of Public Health on public health issues and  
11 scientific and technical matters regarding the following:

12 (A) Development of drinking water criteria for raw water  
13 augmentation of surface water using advanced treated purified  
14 water pursuant to paragraph (1) of subdivision (b) of Section  
15 18031.

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

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

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

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

36 (2) Environmental, environmental justice, and public health  
37 nongovernmental organization representative members of the  
38 advisory group, task force, or other group may be reimbursed for  
39 reasonable and necessary travel expenses.

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## 1 Article 3. Nonpotable Uses of Recycled Water

2  
3 18040. (a) The use of potable water for nonpotable uses,  
4 including, but not limited to, toilet and urinal flushing in structures,  
5 irrigation of cemeteries, golf courses, parks, highway landscaped  
6 areas, and residential landscaping, floor trap priming, cooling  
7 towers, air-conditioning devices, and other industrial and irrigation  
8 uses, is a waste or an unreasonable use of the water within the  
9 meaning of Section 2 of Article X of the California Constitution  
10 if the state board or regional board determines, after notice to any  
11 person or entity who may be ordered to use recycled water or to  
12 cease using potable water and, if requested by the person or entity  
13 after a hearing held pursuant to Article 2 (commencing with Section  
14 648) of Chapter 1.5 of Division 3 of Title 23 of the California Code  
15 of Regulations, that recycled water meeting all of the following  
16 conditions is available:

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

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

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

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

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

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

8 18041. (a) Any state or local public agency may require the  
9 use of recycled water for irrigation of residential landscaping, if  
10 all of the following requirements are met:

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

13 (2) The irrigation systems are constructed in accordance with  
14 Chapter 3 (commencing with Section 60301) of Division 4 of Title  
15 22 of the California Code of Regulations.

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

17 (1) Any existing approved use that is retrofitted to receive  
18 recycled water.

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

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

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

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

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

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

38 (2) Any structure that is retrofitted to permit the use of recycled  
39 water for floor traps, cooling towers, or air-conditioning devices,

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1 for which the State Department of Public Health has approved the  
2 use of recycled water.

3 18043. (a) Any state or local public agency may require the  
4 use of recycled water for toilet and urinal flushing in structures,  
5 except a mental hospital or other facility operated by a public  
6 agency for the treatment of persons with mental disorders, if all  
7 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 public agency has prepared an engineering report  
11 pursuant to Section 60323 of Title 22 of the California Code of  
12 Regulations that includes plumbing design, cross-connection  
13 control, and monitoring requirements for the use site, which are  
14 in compliance with criteria established pursuant to Section 18020.

15 (b) Recycled water may be used in ~~condominiums~~ a  
16 *condominium project, as described in subdivision (f) of Section*  
17 *1351 of the Civil Code*, for toilet and urinal flushing, subject to all  
18 of the following additional conditions:

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

25  
26 "NOTICE OF USE OF RECYCLED WATER

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

37  
38 (2) That each project will be tested by the recycled water agency  
39 or the responsible local agency at least once every four years to

1 ensure that there are no indications of a possible cross connection  
2 between the condominium's potable and nonpotable systems.

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

5

6 Article 4. Exemptions from Environmental Quality Act

7

8 18050. ~~Division 13 (commencing with Section 21000) of the~~  
9 ~~Public Resources Code does not apply to any project that involves~~  
10 ~~only the retrofit of existing plumbing systems to accommodate the~~  
11 ~~use of recycled water.~~ *Any project that involves only the repiping,*  
12 *redesign, or use of recycled water for irrigation of residential*  
13 *landscaping, floor trap priming, cooling towers, air-conditioning*  
14 *devices, or toilet and urinal flushing in structures necessary to*  
15 *comply with a requirement prescribed by a public agency under*  
16 *Section 18041, 18042, or 18043 is exempt from Division 13*  
17 *(commencing with Section 21000) of the Public Resources Code*  
18 *as provided in Section 21080.43 of the Public Resources Code.*

19

20

21 Article 5. Special Provisions

22

23 18060. (a) The Legislature hereby finds and declares that  
24 certain coastal areas of the state have been using sea water to flush  
25 toilets and urinals as a means of conserving potable water; that  
26 this practice precludes the beneficial reuse of treated wastewater  
27 and has had a deleterious effect on the proper wastewater treatment  
28 process, and has led to corrosion of the sea water distribution  
29 pipelines and wastewater collection systems; that this situation  
30 must be changed; and that the use of recycled water in structures  
31 for toilet and urinal flushing does not pose a threat to public health  
32 and safety.

33 (b) Any state or local public agency, that is providing a separate  
34 distribution system for sea water for use in flushing toilets and  
35 urinals in residential structures may, by ordinance or regulation,  
36 as appropriate, authorize the use of recycled water for the flushing  
37 of toilets and urinals in residential structures if the level of  
38 treatment and the use of the recycled water meets the criteria set  
by the State Department of Public Health.

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1           CHAPTER 4.5. PLANNING FOR RECYCLED WATER

2  
3           Article 1. Installation of Dual Piping for Irrigation

4  
5       18100. (a) If a recycled water producer, wholesaler, or supplier  
6 determines that within 10 years the recycled water producer,  
7 *wholesaler, or supplier* proposes to provide recycled water for use  
8 for state landscape irrigation that meets all of the conditions set  
9 forth in Section 18040, the recycled water producer, wholesaler,  
10 or supplier shall so notify the Department of Transportation and  
11 the Department of General Services, and shall identify in the notice  
12 the area that is eligible to receive the recycled water, and the  
13 necessary infrastructure that the recycled water producer,  
14 wholesaler, or supplier proposes to provide, to facilitate delivery  
15 of the recycled water.

16       (b) If notice has been provided pursuant to subdivision (a), all  
17 pipe installed by the Department of Transportation or the  
18 Department of General Services for landscape irrigation within  
19 the identified area shall be of the type necessary to meet the  
20 requirements of Section 116815 of the Health and Safety Code  
21 and applicable regulations.

22  
23           Article 2. Studies Related to Recycled Water

24  
25       18110. The department shall conduct studies and investigations  
26 on the availability and quality of wastewater and the uses of  
27 recycled water for beneficial purposes, including, but not limited  
28 to, groundwater recharge, municipal and industrial use, irrigation  
29 use, and cooling for thermal electric powerplants.

30       18111. The department shall study and investigate the  
31 technology of the use of recycled water and further the  
32 development of the technology of the recycling of water.

33  
34           Article 3. Water Recycling in Landscaping Act

35  
36       18120. If a recycled water producer, wholesaler, or supplier  
37 determines that within 10 years the recycled water producer,  
38 wholesaler, or supplier will provide recycled water within the  
39 boundaries of a land use agency that meets all of the conditions  
40 described in Section 18040, the recycled water producer,

1 *wholesaler, or supplier* shall notify the land use agency of that  
2 fact and shall identify in the notice the area that is eligible to  
3 receive the recycled water, and the necessary infrastructure that  
4 the recycled water producer, wholesaler, or supplier will provide  
5 to support delivery of the recycled water.

6 18121. (a) Within 180 days of receipt of notification from a  
7 recycled water producer, *wholesaler, or supplier* pursuant to  
8 Section 18120, the land use agency shall adopt and enforce a  
9 recycled water ordinance pursuant to this article.

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

12 (1) State that it is the policy of the land use agency that recycled  
13 water determined to be available pursuant to Section 18040 shall  
14 be used for nonpotable uses within the designated recycled water  
15 use area set forth by the land use agency when the local public  
16 agency determines that there is not an alternative higher or better  
17 use for the recycled water, its use is economically justified, and  
18 its use is financially and technically feasible for projects under  
19 consideration by the land use agency.

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

23 (3) Establish general rules and regulations governing the use  
24 and distribution of recycled water in accordance with applicable  
25 laws and regulations.

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

38 (5) Require that recycled water service shall not commence  
39 within the designated recycled water use area in any service area  
40 of a private utility, as defined in Section 1502 of the Public Utilities

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1 Code, or to any service area of a public agency retail water supplier  
2 that is not a local public agency as defined in Section 18005, except  
3 in accordance with a written agreement between the recycled water  
4 producer or wholesaler and the private utility or public agency  
5 retail water supplier that shall be made available in a timely manner  
6 by the recycled water producer or wholesaler to the land use agency  
7 adopting the ordinance pursuant to this article.

8 18122. The recycled water ordinance adopted by a land use  
9 agency pursuant to Section 18121 shall not apply to either of the  
10 following:

11 (a) A tentative map as defined in Section 66424.5 of the  
12 Government Code, or a development, as defined in Section 65927  
13 of the Government Code, that was approved by the land use agency  
14 prior to the receipt of notification from a recycled water producer,  
15 wholesaler, or ~~supplier pursuant~~ *supplier pursuant* to Section 18120.

16 (b) A subdivision map application that is deemed complete  
17 pursuant to Section 65943 of the Government Code prior to the  
18 land use agency's receipt of a notice from a recycled water  
19 producer, wholesaler, or supplier pursuant to Section 18120.

20 18123. (a) This chapter shall not apply to any land use agency  
21 that adopted a recycled water ordinance or other regulation  
22 requiring the use of recycled water in its jurisdiction prior to  
23 January 1, 2001.

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

28

29 Article 4. Provisions Specific to Recycled Water Suppliers and  
30 Retail

31

32 18130. In addition to any other authority provided in law, any  
33 water supplier described in subdivision (b) of Section 1745 may  
34 acquire, store, provide, sell, and deliver recycled water for any  
35 beneficial use, including, but not limited to, municipal, industrial,  
36 domestic, and irrigation uses, if the water use is in accordance with  
37 the uniform water recycling criteria and regulations established  
38 pursuant to this division or the drinking water criteria for advanced  
39 treated purified water *and soil aquifer treated purified water*  
40 established pursuant to ~~subdivision (b)~~ of Section 18031.



1 18131. (a) Retail water suppliers shall identify potential uses  
2 for recycled water within their service areas, potential customers  
3 for recycled water service within their service areas, and, within  
4 a reasonable time, potential sources of recycled water.

5 (b) Recycled water producers and recycled water wholesalers  
6 may also identify potential uses for recycled water, and may assist  
7 retail water suppliers in identifying potential customers for recycled  
8 water service within the service areas of those retail water suppliers.

9 (c) Recycled water producers, wholesalers, and suppliers, and  
10 entities responsible for groundwater replenishment may cooperate  
11 in joint technical, economic, and environmental studies, as  
12 appropriate, to determine the feasibility of providing recycled  
13 water service and recycled water for groundwater replenishment  
14 consistent with the criteria set forth in paragraphs (1) to (3),  
15 inclusive, of subdivision (a) of Section 18040 and in accordance  
16 with Section 60320 of Title 22 of the California Code of  
17 Regulations.

18 18132. (a) A retail water supplier that has identified a potential  
19 use or customer pursuant to Section 18131 may apply to a recycled  
20 water producer or recycled water wholesaler for a recycled water  
21 supply.

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

26 (c) A customer may request, in writing, a retail water supplier  
27 to enter into an agreement to provide recycled water to the  
28 customer.

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

38 (2) An entity responsible for groundwater replenishment that  
39 is not a customer of a retail water supplier and that has identified  
40 the potential use of recycled water for groundwater replenishment

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1 purposes may, in writing, request a retail water supplier, a recycled  
2 water producer, or a recycled water wholesaler to enter into an  
3 agreement to provide recycled water for that purpose.

4 18133. (a) (1) A retail water supplier that receives a request  
5 from a customer pursuant to subdivision (c) of Section 18132 shall  
6 enter into an agreement to provide recycled water, if recycled water  
7 is available, or can be made available, to the retail water supplier  
8 for sale to the customer.

9 (2) Notwithstanding paragraph (1), in accordance with a written  
10 agreement between a recycled water producer or a recycled water  
11 wholesaler and a retail water supplier, the retail water supplier  
12 may delegate to a recycled water producer or a recycled water  
13 wholesaler its responsibility under this section to provide recycled  
14 water.

15 (b) A customer shall not obtain recycled water from a recycled  
16 water producer, a recycled water wholesaler, or a retail water  
17 supplier other than the retail water supplier whose service area  
18 includes the property to which the customer requests recycled  
19 water delivery without the agreement of the retail water supplier  
20 for that service area.

21 (c) If either a recycled water producer or a recycled water  
22 wholesaler provides a customer of a retail water supplier with a  
23 written statement that it can and will provide recycled water to the  
24 retail water supplier, the retail water supplier shall, not later than  
25 120 days from the date on which the retail water supplier receives  
26 the written statement from the customer, by certified mail, return  
27 receipt requested, submit a written offer to the customer. A  
28 determination of availability pursuant to Section 18040 is not  
29 required.

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

1 Article 5. Distribution of Recycled Water in Separate Purple  
2 Pipelines  
3

4 18140. (a) Water delivery systems on private property that  
5 could deliver recycled water for nonpotable uses that are  
6 constructed on and after January 1, 1993, shall be designed to  
7 ensure that the water to be used for potable uses is delivered, from  
8 the point of entry to the private property to be served, in a separate  
9 pipeline that is not used to deliver the recycled water.

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

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

14 (2) One that does not have an urban water management plan  
15 that includes recycled water use, but that is within five miles of a  
16 jurisdiction that does have an urban water management plan that  
17 includes recycled water use, and has indicated a willingness to  
18 serve the water delivery system.

19 (3) One that has received notice under Section 18120.

20 (c) This section does not preempt local regulation of the delivery  
21 of water for potable and nonpotable uses and any local governing  
22 body may adopt requirements for water delivery systems on private  
23 property that are more restrictive than the requirements of this  
24 section.

25 18141. (a) All pipes installed above or below the ground, on  
26 and after June 1, 1993, that are designed to carry recycled water,  
27 shall be colored purple or distinctively wrapped with purple tape.

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

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

35 (2) Water delivered for agricultural use.

CHAPTER 5-6. PERMITTING OF RECYCLED WATER

Article 1. Authority

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

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

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

(c) Except as provided for in subdivision (d), the use of advanced treated purified water for raw water augmentation shall be permitted as a source of supply by the State Department of Public Health pursuant to ~~Section~~ Sections 26302 and 26303 of the Health and Safety Code and not subject to a water recycling permit. The permits shall implement the drinking water criteria adopted by the State Department of Public Health pursuant to subdivision (b) of Section 18031.

(d) When advanced treated purified water is used in conjunction with soil aquifer treated purified water in a recycled water 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~~ *January 1, 2013*,  
16 utilizing water recycling requirements, master recycling permits,  
17 or waste discharge requirements issued pursuant to Division 7  
18 (commencing with Section 13000) shall be permitted in accordance  
19 with this division or Chapter 20 (commencing with Section 26300)  
20 of 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 upon  
23 agreement by the appropriate regional board and permitted entity,  
24 whichever is sooner.

25 (b) The use of recycled water, as defined in this division,  
26 permitted prior to ~~December 31, 2012~~ *January 1, 2013*, utilizing  
27 water recycling requirements, master recycling permits, or waste  
28 discharge requirements issued pursuant to Division 7 (commencing  
29 with Section 13000) shall be complied with, administered, and  
30 enforced in accordance with those water recycling requirements,  
31 master recycling permits, or waste discharge requirements issued  
32 pursuant 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 a  
37 water recycling permit for nonpotable reuse to a producer,  
38 wholesaler, or supplier of recycled water, or a combination thereof  
39 for multiple *uses and* users of recycled water.

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

3 (1) Water recycling requirements to assure compliance with the  
4 uniform water recycling criteria for nonpotable reuse.

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

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

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

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

22 (c) With regard to requirements related to the protection of the  
23 public health, the state board and regional boards shall implement  
24 the recommendations of the State Department of Public Health.

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

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

37 18211. (a) In lieu of issuing a water recycling permit for  
38 nonpotable reuse to a producer, wholesaler, or supplier of recycled  
39 water, the state board or a regional water board may issue general

1 permits that provide coverage to producers, wholesalers, or  
2 suppliers, or a combination thereof.

3 (b) A general permit for recycled water that involves nonpotable  
4 reuse shall include requirements consistent with those specified  
5 in Section 18210 for an individual water recycling permit.

6 18212. (a) The state board or a regional board may issue a  
7 recycled water groundwater recharge permit to a producer,  
8 wholesaler, or supplier of recycled water, an entity responsible for  
9 groundwater replenishment, or a combination thereof, for recycled  
10 water groundwater recharge projects using soil aquifer treated  
11 purified water, alone or in conjunction with advanced treated  
12 purified water.

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

15 (1) Requirements to ~~assure~~ *ensure* compliance with the drinking  
16 water criteria for recycled water groundwater recharge projects.

17 (2) Source control requirements needed to protect the quality  
18 of the recycled water and achieve the requirements of paragraph  
19 (1).

20 (3) Appropriate monitoring and reporting requirements to  
21 characterize the quality of the recycled water and groundwater  
22 basin and demonstrate compliance with the requirements of the  
23 permit.

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

28 (5) A requirement that the permittee comply with the program  
29 described in the permittee's report of intent to recycle water filed  
30 pursuant to Section 18221.

31 (c) With regard to requirements related to protection of public  
32 health, the state board and regional boards shall implement the  
33 recommendations of the State Department of Public Health.

34

### 35 Article 3. Permit Application

36

37 18220. (a) Any recycled water producer, wholesaler, or  
38 supplier of recycled water for nonpotable purposes for which  
39 uniform water recycling criteria have been established shall file

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1 with the appropriate regional board a report of intent to recycle  
2 water containing the following information:

3 (1) An engineering report containing the information required  
4 by the State Department of Public Health in accordance with its  
5 regulations established in Title 22 of the California Code of  
6 Regulations. The engineering report shall include, but not be  
7 limited to, a description of the ~~methods~~ *method* or methods of  
8 wastewater treatment for the category of recycled water to be used  
9 and a description of the method or methods to be used to ~~assure~~  
10 *ensure* that the installation and operation of the recycled system  
11 will not result in cross-connections between the recycled water  
12 and potable water piping systems, but shall not require the  
13 identification of every site that may be connected to the recycled  
14 water delivery system as long as every category of recycled water  
15 use is addressed. The engineering report shall also include a  
16 detailed operations plan for the recycled water use areas, including  
17 methods and procedures for implementation of regulations  
18 regarding recycled water use and maintenance of equipment and  
19 emergency backup systems, and a monitoring and reporting  
20 program to demonstrate compliance with subdivision (b) of Section  
21 18210.

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

30 (3) As applicable, a copy of the recycled water producer's,  
31 wholesaler's, or supplier's established rules, or general rules or  
32 regulations as approved by the State Department of Public Health  
33 for producers, wholesalers, suppliers, and users, governing the use  
34 of recycled water in accordance with the uniform water recycling  
35 criteria.

36 (b) Every recycled water producer, wholesaler, or supplier of  
37 recycled water shall file with the appropriate regional board a  
38 report of any material change or proposed change in the character  
39 of the recycled water or its use.



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

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

7 18221. (a) Any person proposing a recycled water groundwater  
8 recharge project as defined in this division, within any region and  
9 in accordance with the ~~uniform~~ drinking water criteria, shall file  
10 with the appropriate regional board a report of intent to recycle  
11 water containing the following information:

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

26 (2) An implementation plan for demonstrating that the use of  
27 recycled water in accordance with this division will not cause the  
28 underlying groundwater to exceed any water quality objective  
29 specified for the groundwater in the applicable water quality control  
30 plan, except as provided in Section 18224. Where a ~~salt/nutrient~~  
31 *salt or nutrient, or salt and nutrient*, plan is in place for the basin  
32 or subbasin, the implementation plan may consist of the  
33 implementation provisions of ~~such salt/nutrient~~ *that* plan.

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

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

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1 18221.5. (a) The applicable regional board shall determine  
2 the adequacy of a report of intent to recycle water filed pursuant  
3 to either Section 18220 or 18221 within the time limits set forth  
4 in Section ~~65943~~ 65956 of the Government Code.

5 (b) When a project is deemed approved pursuant to Section  
6 ~~65943~~ 65956 of the Government Code due to a regional board  
7 failure to act on a report of intent to recycle water, the applicant  
8 may recycle water as proposed in the report of intent to recycle  
9 water until the regional board adopts a water recycling permit or  
10 recycled water groundwater recharge permit relative to that project.  
11 The regional board shall adopt an appropriate water recycling  
12 permit or recycled water groundwater recharge permit as soon as  
13 possible for any project deemed approved pursuant to Section  
14 ~~65943~~ 65956 of the Government Code.

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

19 18222. The state board and each regional board shall consult  
20 with and receive the recommendations of the State Department of  
21 Public Health prior to prescribing any water recycling permit as  
22 described in Section 18210 or 18212 or a general permit for  
23 recycled water as described in Section 18211.

24 18223. (a) The state board or a regional board, as applicable,  
25 shall hold a public hearing for the adoption of any water recycling  
26 permit as described in Section 18210 or 18212 or a general permit  
27 for recycled water as described in Section 18211.

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

32 (c) The notification required by subdivision (b) may be provided  
33 by mailing a draft of the water recycling permit or general permit  
34 for recycled water to each person who has requested notice of the  
35 specific item, or by posting a draft of the respective requirements  
36 or order on the official Internet *Web* site maintained by the state  
37 board or regional board, and providing notice of that posting by  
38 electronic mail to each person who has requested notice.

39 18224. The state board and regional boards shall not deny  
40 issuance of a water recycling permit or general permit for recycled

1 water to a project that violates only a salinity standard in the basin  
2 plan.

3

4

#### Article 4. Permit Fees

5

6 18230. (a) (1) Each person who submits a report of intent to  
7 recycle water in accordance with Section 18220 or 18221 shall  
8 submit a permit filing fee according to a fee schedule established,  
9 and periodically adjusted as appropriate, by the state board in  
10 conformance with this section.

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

20 (3) Any permit filing fee adopted by the state board, or  
21 adjustments thereto, shall not be subject to the requirements of  
22 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
23 3 of Title 2 of the Government Code, and shall remain in effect  
24 until revised by the state board.

25 (b) The total amount of permit filing fees collected pursuant to  
26 this section shall equal that amount necessary to recoup the costs  
27 incurred by the state board or regional board in issuing water  
28 recycling permits and general permits for recycled water.

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

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

37 18231. (a) (1) Each person who is subject to a water recycling  
38 permit as described in Section 18210 or 18212, a general permit  
39 for recycled water as described in Section 18211, or a permit issued  
40 by the State Department of Public Health pursuant to Section 26302

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1 of the Health and Safety Code shall submit an annual fee according  
2 to a fee schedule established, and periodically adjusted as  
3 appropriate, by the state board in conformance with this section.

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

6 (3) The state board shall provide notice and a period of at least  
7 30 days for public comment prior to the adoption or adjustment  
8 of any annual fee as described in paragraph (1) or timetable as  
9 described in paragraph (2) at a noticed public meeting. The  
10 notification may be provided by mailing a draft of the proposed  
11 fee or timetable, as applicable, to each person who has requested  
12 notice of the specific item, or by posting a draft of the proposed  
13 fee or timetable, as applicable, on the official Internet Web site  
14 maintained by the state board, and providing notice of that posting  
15 by electronic mail to each person who has requested notice.

16 (4) Any annual fee or timetable adopted by the state board, or  
17 adjustments thereto, shall not be subject to the requirements of  
18 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
19 3 of Title 2 of the Government Code, and shall remain in effect  
20 until revised by the state board.

21 (b) The total amount of annual fees collected pursuant to this  
22 section shall equal the amount necessary to recoup the recoverable  
23 costs as described in subdivision (c) incurred in connection with  
24 the administration, reviewing, monitoring, and enforcement of  
25 water recycling permits and general permits for recycled water  
26 and consultation with the State Department of Public Health  
27 regarding permits issued pursuant to ~~Section 26302~~ 26303 of the  
28 Health and Safety Code.

29 (c) Recoverable costs are those costs incurred by the state board  
30 or a regional board in reviewing monitoring reports; prescribing  
31 terms of water recycling permits, general permits for recycled  
32 water, and monitoring requirements; enforcing and evaluating  
33 compliance with water recycling permits and general permits for  
34 recycled water; analyzing laboratory samples; and reviewing  
35 documents prepared for the purpose of regulating permits for water  
36 recycling; and administrative costs incurred in connection with  
37 carrying out these actions.

38 (d) The fees collected pursuant to this section shall be deposited  
39 in the Water Recycling Permit Fund established pursuant to Section  
40 18230.

## 1 CHAPTER 5-5.7. ADMINISTRATIVE AND JUDICIAL REVIEW

2  
3 18300. An aggrieved person may petition the state board to  
4 review any action or failure to act of a regional board pursuant to  
5 this division in the same manner as provided for an action or failure  
6 to act of a regional board pursuant to Division 7 (commencing  
7 with Section 13000) in accordance with Section 13320. The petition  
8 may include a request for stay of the water recycling permit or any  
9 requirements thereof. A request for stay shall be subject to the  
10 procedural requirements of Sections 13320 and 13321.

11 18301. A person aggrieved by a decision or order of a regional  
12 board subject to review under Section 18300, or of a decision or  
13 order of the state board, may obtain review of the decision or order  
14 of the regional board or state board, as appropriate, in the superior  
15 court in the same manner as provided for review of a regional  
16 board or state board decision or order under Division 7  
17 (commencing with Section 13000) in the superior court in  
18 accordance with the procedural requirements of Section 13330.

19  
20 CHAPTER 6-8. REPORTING AND INVESTIGATION

21  
22 18350. (a) Any person who, without regard to intent or  
23 negligence, causes or permits an unauthorized release of 50,000  
24 gallons or more of tertiary recycled water, as defined in subdivision  
25 (c), in or on any waters of the state, or causes or permits such  
26 unauthorized release to occur where it has, or probably will, enter  
27 any waters of the state, shall, as soon as (1) that person has  
28 knowledge of the release, (2) notification is possible, and (3)  
29 notification can be provided without substantially impeding cleanup  
30 or other emergency measures, immediately notify the appropriate  
31 regional board.

32 (b) For the purposes of this section, an unauthorized release  
33 means a release of recycled water not authorized by a water  
34 recycling permit pursuant to Section 18210 or 18212, a general  
35 permit for recycled water pursuant to Section 18211, or any other  
36 provision of this division.

37 (c) For the purposes of this section, “tertiary recycled water”  
38 means wastewater treated as “disinfected tertiary recycled water,”  
39 as defined or described by the State Department of Public Health  
40 or wastewater receiving advanced treatment beyond disinfected

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1 tertiary 2.2 recycled water that is not advanced treated purified  
2 water.

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

4 18351. (a) Any person refusing or failing to provide the notice  
5 required by Section 18350, or as required by a condition of a water  
6 recycling permit or a general permit for recycled water requiring  
7 notification of unauthorized releases of recycled water, may be  
8 subject to administrative civil liability in an amount not to exceed  
9 the following:

10 (1) For the first violation, or a subsequent violation occurring  
11 more than 365 days from a previous violation, five thousand dollars  
12 (\$5,000).

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

15 (3) For a third or subsequent violation occurring within 365  
16 days of a previous violation, twenty-five thousand dollars  
17 (\$25,000).

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

20 (c) Any penalties paid pursuant to this section shall be deposited  
21 into the Water Recycling Research Fund established pursuant to  
22 Section 18405.

23 18352. (a) A regional board may require any person suspected  
24 of producing, wholesaling, supplying, or using recycled water in  
25 violation of Section ~~18221~~ 18220 or Section ~~18220~~ 18221, or  
26 subdivision (a) of Section 18400 to furnish information that the  
27 regional board considers relevant to determining whether a  
28 violation is occurring or has occurred.

29 (b) *When requested by the person furnishing a report, the*  
30 *portions of a report that might disclose trade secrets or secret*  
31 *processes shall not be made available for inspection by the public*  
32 *but shall be made available to governmental agencies for use in*  
33 *making studies. However, these portions of a report shall be*  
34 *available for use by the state or any state agency in judicial review*  
35 *or enforcement proceedings involving the person furnishing the*  
36 *report.*

37 (c) *In conducting an investigation pursuant to subdivision (a),*  
38 *the regional board may inspect the facilities of any person to*  
39 *ascertain whether the purposes of this division are being met and*  
40 *that water recycling permits or general permits for recycled water*

1 are being complied with. The inspection shall be made with the  
2 consent of the owner or possessor of the facilities or, if the consent  
3 is withheld, with a warrant duly issued pursuant to the procedure  
4 set forth in Title 13 (commencing with Section 1822.50) of Part 3  
5 of the Code of Civil Procedure. However, in the event of an  
6 emergency affecting the public health or safety, an inspection may  
7 be performed without consent or the issuance of a warrant.

8 ~~(b)~~

9 (d) The state board may carry out the authority granted to a  
10 regional board pursuant to this section if, after consulting with the  
11 regional board, the state board determines that it will not duplicate  
12 the efforts of the regional board.

13  
14 CHAPTER 7.9. ENFORCEMENT

15  
16 18400. (a) A person shall not produce, wholesale, supply, or  
17 use recycled water for any purpose for which uniform water  
18 recycling criteria or drinking water criteria have been established  
19 until a water recycling permit or general permit has been issued  
20 pursuant to this division or the state board or applicable regional  
21 board determines that no such requirements or permits are  
22 necessary.

23 (b) Upon the refusal or failure of any person or persons  
24 producing, wholesaling, supplying, or using recycled water to  
25 comply with subdivision (a), the Attorney General, at the request  
26 of the regional board, shall petition the superior court for the  
27 issuance of a temporary restraining order, preliminary injunction,  
28 or permanent injunction, or combination thereof, as may be  
29 appropriate, prohibiting forthwith any person or persons from  
30 violating or threatening to violate the provisions of subdivision  
31 (a).

32 (c) Any person or persons producing, wholesaling, supplying,  
33 or using recycled water in violation of subdivision (a), after the  
34 violation has been called to his or her attention in writing by the  
35 state board or regional board, is guilty of a misdemeanor. Each  
36 day of production, wholesaling, supplying, or use of recycled water  
37 shall constitute a separate offense.

38 (d) Civil liability may be administratively imposed by a regional  
39 board in accordance with Sections 18401 and 18403 for a violation  
40 of subdivision (a) in an amount which shall not exceed one

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1 thousand dollars (\$1,000) for each day in which the violation  
2 occurs.

3 18401. (a) Any executive officer of a regional board may issue  
4 a complaint to any person on whom administrative civil liability  
5 may be imposed pursuant to this chapter. The complaint shall  
6 allege the act or failure to act that constitutes a violation of law,  
7 the provision of law authorizing civil liability to be imposed  
8 pursuant to this chapter, and the proposed civil liability.

9 (b) The complaint shall be served by certified mail or in  
10 accordance with Article 3 (commencing with Section 415.10) and  
11 Article 4 (commencing with Section 416.10) of Chapter 4 of Title  
12 5 of Part 2 of the Code of Civil Procedure, and shall inform the  
13 party so served that a hearing before the regional board shall be  
14 conducted within 90 days after the party has been served. The  
15 person who has been issued a complaint may waive the right to a  
16 hearing.

17 (c) In proceedings under this ~~part~~ *chapter* for imposition of  
18 administrative civil liability by the state board, the executive  
19 director of the state board shall issue the complaint and any hearing  
20 shall be before the state board, or before a member of the state  
21 board in accordance with Section 183, and shall be conducted not  
22 later than 90 days after the party has been served.

23 (d) Orders imposing administrative civil liability shall become  
24 effective and final upon issuance thereof, and are not subject to  
25 review by any court or agency except as provided by Sections  
26 18300 and 18301. Payment shall be made not later than 30 days  
27 from the date on which the order is issued. The time for payment  
28 is extended during the period in which a person who is subject to  
29 an order seeks review under Sections 18300 and 18301. Copies of  
30 these orders shall be served by certified mail or in accordance with  
31 Article 3 (commencing with Section 415.10) and Article 4  
32 (commencing with Section 416.10) of Chapter 4 of Title 5 of Part  
33 2 of the Code of Civil Procedure upon the party served with the  
34 complaint and shall be provided to other persons who appeared at  
35 the hearing and requested a copy.

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



1 18402. No person shall be subject to both civil liability imposed  
2 under this chapter and civil liability imposed by the superior court  
3 under Section 18405 for the same act or failure to act.

4 18403. In determining the amount of civil liability, the regional  
5 board, and the state board upon review of any order pursuant to  
6 Section 18300, shall take into consideration the nature,  
7 circumstance, extent, and gravity of the violation or violations,  
8 whether the release is susceptible to cleanup or abatement, and,  
9 with respect to the violator, the ability to pay, the effect on ability  
10 to continue in business, any voluntary cleanup efforts undertaken,  
11 any prior history of violations, the degree of culpability, economic  
12 benefit or savings, if any, resulting from the violation, and other  
13 matters as justice may require.

14 18404. After the time for judicial review under Section 18301  
15 has expired, the state board may apply to the clerk of the  
16 appropriate court in the county in which the civil liability or penalty  
17 was imposed, for a judgment to collect the civil liability or penalty.  
18 The application, which shall include a certified copy of the state  
19 board or regional board action, constitutes a sufficient showing to  
20 warrant issuance of the judgment. The court clerk shall enter the  
21 judgment immediately in conformity with the application. The  
22 judgment so entered has the same force and effect as, and is subject  
23 to all the provisions of law relating to, a judgment in a civil action,  
24 and may be enforced in the same manner as any other judgment  
25 of the court in which it is entered.

26 18405. (a) A person who (1) violates a cease and desist order  
27 hereafter issued, reissued, or amended by a regional board or the  
28 state board pursuant to this division, or (2) in violation of a water  
29 recycling permit or other order or prohibition issued, reissued, or  
30 amended by a regional board or the state board pursuant to this  
31 division, causes or permits recycled water to be used except in  
32 accordance with a water recycling permit or other actions or  
33 provisions of this division, including overflow of recycled water  
34 from an impoundment that does not constitute storm-induced  
35 overflow as defined in this division, shall be liable civilly, and  
36 remedies may be proposed, in accordance with subdivision (c) or  
37 (d).

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

40 (1) An act of war.

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

5 (3) Negligence on the part of the state, the United States, or any  
6 department or agency thereof. However, this paragraph shall not  
7 be interpreted to provide the state, the United States, or any  
8 department or agency thereof a defense to liability for any release  
9 caused by its own negligence.

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

13 (5) Any other circumstance or event that causes the release  
14 despite the exercise of every reasonable precaution to prevent or  
15 mitigate the release.

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

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

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

22 (d) The state board or a regional board may impose civil liability  
23 administratively pursuant to Section 18401 either on a daily basis  
24 or on a per gallon basis, but not on both.

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

27 (A) When there is a release, and a cease and desist order is  
28 issued that requires cleanup, except as provided in subdivision (e),  
29 the civil liability shall not be less than five hundred dollars (\$500)  
30 for each day in which the release occurs and for each day the cease  
31 and desist order is violated.

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

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

38 (e) A regional board shall not administratively impose civil  
39 liability in accordance with paragraph (1) of subdivision (d) in an  
40 amount less than the minimum amount specified, unless the

1 regional board makes express findings setting forth the reasons  
2 for its action based upon the specific factors required to be  
3 considered pursuant to Section 18403.

4 (f) The Attorney General, upon request of a regional board or  
5 the state board, shall petition the superior court to impose, assess,  
6 and recover the sums. Except in the case of a violation of a cease  
7 and desist order, a regional board or the state board shall make the  
8 request only after a hearing, with due notice of the hearing given  
9 to all affected persons. In determining the amount to be imposed,  
10 assessed, or recovered, the court shall be subject to Section 18406.

11 (g) A person who incurs any liability established under this  
12 section shall be entitled to contribution for that liability from a  
13 third party, in an action in the superior court and upon proof that  
14 the release was caused in whole or in part by an act or omission  
15 of the third party, to the extent that the release is caused by the act  
16 or omission of the third party, in accordance with the principles  
17 of comparative fault.

18 (h) (1) The Legislature hereby establishes the Water Recycling  
19 Research Fund.

20 (2) Notwithstanding any other law, all funds generated by the  
21 imposition of liabilities pursuant to this section shall be deposited  
22 into the Water Recycling Research Fund. These moneys shall be  
23 separately accounted for, and shall be expended by the state board,  
24 upon appropriation by the Legislature, to conduct or fund research  
25 necessary to support the continued and safe use of recycled water  
26 in the state.

27 (i) In lieu of assessing penalties pursuant to this section, the  
28 state board or regional board, with the concurrence of the person  
29 subject to liability in accordance with this section, may direct a  
30 portion of the amount that could have been imposed as a penalty  
31 to be expended on a supplemental environmental project. For  
32 purposes of this subdivision, “supplemental environmental project”  
33 means an environmentally beneficial project relating to water  
34 quality that a person agrees to undertake, with the approval of the  
35 regional board, that would not be undertaken in the absence of an  
36 enforcement action under this section.

37 18406. In determining the amount of civil liability to be  
38 imposed pursuant to this chapter, the superior court shall take into  
39 consideration the nature, circumstance, extent, and gravity of the  
40 violation or violations, whether the release is susceptible to cleanup

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1 or abatement, the degree of toxicity of the release, and, with respect  
2 to the violator, the ability to pay, the effect on ability to continue  
3 in business, any voluntary cleanup efforts undertaken, any prior  
4 history of violations, the degree of culpability, economic benefit  
5 or savings, if any, resulting from the violation, and such other  
6 matters as justice may require.

7 18407. If a regional board finds that recycled water is being,  
8 or may be, produced, wholesaled, supplied, or used in a manner  
9 that violates or will violate a water recycling permit or general  
10 permit prescribed by the regional board or the state board, the  
11 board may require the producer, wholesaler, supplier, or user to  
12 submit for approval of the board, with modifications as it  
13 determines necessary, a detailed time schedule of specific actions  
14 the producer, wholesaler, supplier, or user shall take in order to  
15 correct or prevent a violation of the water recycling permit or  
16 general permit.

17 18408. (a) If a regional board finds that recycled water is being,  
18 or may be, produced, wholesaled, supplied, or used in violation  
19 of a water recycling permit or general permit for recycled water,  
20 the state board or regional board, as applicable, may issue an order  
21 to cease and desist and direct that those persons not complying  
22 with the water recycling permit or general permit for recycled  
23 water comply immediately, comply in accordance with a time  
24 schedule set by the board, or take appropriate remedial or  
25 preventive action. Cease and desist orders may be issued directly  
26 by a board, after notice and hearing.

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

32 18409. (a) If the regional board determines there is a threatened  
33 or continuing violation of any cease and desist order, the regional  
34 board may issue an order establishing a time schedule for  
35 compliance and prescribing a civil penalty which shall become  
36 due if compliance is not achieved in accordance with that time  
37 schedule.

38 (b) The amount of the civil penalty shall be based upon the  
39 amount reasonably necessary to achieve compliance, and may not  
40 include any amount intended to punish or redress previous

1 violations. The amount of the penalty may not exceed ten thousand  
2 dollars (\$10,000) for each day in which the violation occurs.

3 (c) Any person who fails to achieve compliance in accordance  
4 with the schedule established in an order issued pursuant to  
5 subdivision (a) shall be liable civilly in an amount not to exceed  
6 the amount prescribed by the order. The regional board may impose  
7 the penalty administratively in accordance with this chapter. If the  
8 regional board imposes the penalty in an amount less than the  
9 amount prescribed in the order issued pursuant to subdivision (a),  
10 the regional board shall make express findings setting forth the  
11 reasons for its action.

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

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

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

19 18410. (a) If the State Department of Public Health or a local  
20 health officer finds that a contamination of potable water supplies  
21 exists as a result of the use of recycled water, the department or  
22 local health officer shall order the contamination abated in  
23 accordance with the procedure provided for in Chapter 6  
24 (commencing with Section 5400) of Part 3 of Division 5 of the  
25 Health and Safety Code.

26 (b) The use of recycled water in accordance with the uniform  
27 water recycling criteria established pursuant to Section 18020, and  
28 drinking water criteria established pursuant to Section 18031, for  
29 the purpose of this section, ~~does~~ *is presumed* not to cause,  
30 constitute, or contribute to, any form of contamination. If new  
31 information becomes available or circumstances materially change,  
32 the regional board may reopen, revise, and reissue the water  
33 recycling permit.

34

#### 35 CHAPTER 8.10. FUNDING

36

37 18450. The department may assist local agencies and public  
38 utilities providing water service in applying for, and in obtaining  
39 approval of, federal and state funding and permits for cost-effective

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1 water recycling projects and shall confer and cooperate with the  
2 state board during the application and approval process.

3 18451. To implement the policy declarations of this division,  
4 the state board is authorized to provide loans for the development  
5 of water recycling facilities, or for studies and investigations in  
6 connection with water recycling, pursuant to the provisions of  
7 Chapter 6 (commencing with Section 13400) of Division 7.

8 18452. In administering any statewide program of financial  
9 assistance for water pollution or water quality control delegated  
10 to it pursuant to Chapter 6 (commencing with Section 13400) of  
11 Division 7, the state board shall give added consideration to water  
12 quality control facilities providing optimum water recycling and  
13 use of recycled water.

14 ~~SEC. 26.~~

15 *SEC. 25.* No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.

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***AB 2398 (HUESO)***

***RECYCLED WATER USES AND STATE AGENCY PERMITTING AUTHORITIES UNDER EXISTING LAW AND AB 2398***

Recycled water receiving tertiary treatment or advanced treatment to purified water standards, as defined, would no longer be a waste regulated by RWQCBs under the Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.). Instead, under AB 2398 these uses would be regulated as a water source by RWQCBs (or, for potable reuse projects involving advanced treated purified water, by the Department of Public Health (DPH)). RWQCBs would retain authority to assure Basin Plan objectives are met.

<b>Recycled Water Uses and Agency Authorities Under Existing and Proposed Statute</b>			
<b>Use</b>	<b>Type of Water</b>		
	<b>Secondary</b>	<b>Tertiary</b>	<b>Advanced Treated Purified Water</b>
Irrigation and industrial process	Current: RWQCB regulates as waste under Porter-Cologne; DPH advisory	Current: RWQCB regulates as waste under Porter-Cologne; DPH advisory to RWQCB	Current <sup>a</sup> : RWQCB regulates as waste under Porter-Cologne; DPH advisory to RWQCB
	Proposed: no change	Proposed: RWQCB regulates as recycled water under AB 2398 Water Recycling statutes; DPH advisory to RWQCB	Proposed <sup>a</sup> : RWQCB regulates as recycled water under AB 2398 Water Recycling statutes; DPH advisory to RWQCB
Groundwater replenishment via percolation and soil aquifer treatment	Current: not allowed	Current: RWQCB regulates under Porter-Cologne. DPH advisory to RWQCB	Current: RWQCB regulates under Porter-Cologne. DPH advisory to RWQCB
	Proposed: no change	Proposed: RWQCB regulates under AB 2398 Water Recycling statutes. DPH advisory to RWQCB	Proposed: DPH regulates under AB 2398 Water Recycling statutes. RWQCB advisory to DPH

Groundwater replenishment via injection	Current: not allowed	Current: RWQCB regulates under Porter-Cologne. DPH advisory to RWQCB	Current: RWQCB regulates under Porter-Cologne. DPH advisory to RWQCB
	Proposed: no change	Proposed: RWQCB regulates under AB 2398 Water Recycling statutes. DPH advisory to RWQCB	Proposed: DPH regulates under AB 2398 Water Recycling statutes. RWQCB advisory to DPH
Surface water augmentation (drinking water supply reservoirs and conveyance)	Current: not allowed	Current: RWQCB regulates discharge under Porter-Cologne and federal NPDES, DPH permits under Health and Safety Code Section 116551 and is developing regulations	Current: RWQCB regulates discharge under Porter-Cologne and federal NPDES, DPH permits under Health and Safety Code Section 116551 and is developing regulations
	Proposed: no change	Proposed: No change	Proposed: No change to RWQCB's federal authority or DPH authority under H&S Code. DPH would issue State permit under AB 2398 Water Recycling Statutes.

<sup>a</sup> WateReuse California is unaware of any advanced treated purified water developed for the purpose of irrigation. This highly treated water is used for potable purposes.

#### Hypothetical permitting examples under AB 2398 Water Recycling Statutes:

A water agency proposes to augment a surface water reservoir with Advanced Treated Purified Water. Under existing federal authority, RWQCB considers water quality impacts and regulates project as needed to assure compliance with Basin Plan objectives. DPH would impose requirements on the project consistent with regulations that it would develop to protect public health.

A water agency proposes to augment a groundwater via injection with Advanced Treated Purified Water. DPH would be the primary permitting authority and would permit the project to assure public health is protected and, based on input from RWQCB, that water quality objectives for groundwater are met.

A water agency proposes to use a combination of Advanced Treated Purified Water and Tertiary Water in groundwater replenishment project using percolation. RWQCB would be the primary permitting agency and would issue a permit that assures groundwater quality objectives are met and, based on input from DPH, public health is protected.