

## **CHAPTER 7.3. DIRECT AND INDIRECT POTABLE REUSE [13560. - 13569.]**

*(Chapter 7.3 added by Stats. 2010, Ch. 700, Sec. 3.)*

### **§ 13560. [Legislative findings]**

The Legislature finds and declares the following:

(a) In February 2009, the state board unanimously adopted, as Resolution No. 2009-0011, an updated water recycling policy, which includes the goal of increasing the use of recycled water in the state over 2002 levels by at least 1,000,000 acre-feet per year by 2020 and by at least 2,000,000 acre-feet per year by 2030.

(b) Section 13521 requires the department to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health.

(c) The use of recycled water for indirect potable reuse is critical to achieving the state board's goals for increased use of recycled water in the state. If direct potable reuse can be demonstrated to be safe and feasible, implementing direct potable reuse would further aid in achieving the state board's recycling goals.

(d) Although there has been much scientific research on public health issues associated with indirect potable reuse through groundwater recharge, there are a number of significant unanswered questions regarding indirect potable reuse through surface water augmentation and direct potable reuse.

(e) Achievement of the state's goals depends on the timely development of uniform statewide recycling criteria for indirect and direct potable water reuse.

(f) This chapter is not intended to delay, invalidate, or reverse any study or project, or development of regulations by the department, the state board, or the regional boards regarding the use of recycled water for indirect potable reuse for groundwater recharge, surface water augmentation, or direct potable reuse.

(g) This chapter shall not be construed to delay, invalidate, or reverse the department's ongoing review of projects consistent with Section 116551 of the Health and Safety Code.

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011.)*

### **§ 13561. [Definitions]**

For purposes of this chapter, the following terms have the following meanings:

(a) "Department" means the State Department of Public Health.

(b) "Direct potable reuse" means the planned introduction of recycled water either directly into a public water system, as defined in Section 116275 of the Health and Safety Code, or into a raw water supply immediately upstream of a water treatment plant.

(c) "Indirect potable reuse for groundwater recharge" means the planned use of recycled water for replenishment of a groundwater basin or an aquifer that has been designated as a source of water supply for a public water system, as defined in Section 116275 of the Health and Safety Code.

(d) "Surface water augmentation" means the planned placement of recycled water into a surface water reservoir used as a source of domestic drinking water supply.

(e) "Uniform water recycling criteria" has the same meaning as in Section 13521.

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011.)*

### **§ 13561.5. [State Board agreement to assist]**

The state board shall enter into an agreement with the department to assist in implementing this chapter.

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011.)*

### **§ 13562. [Uniform water recycling criteria]**

(a) (1) On or before December 31, 2013, the department shall adopt uniform water recycling criteria for indirect potable reuse for groundwater recharge.

(2) (A) Except as provided in subparagraph (C), on or before December 31, 2016, the department shall develop and adopt uniform water recycling criteria for surface water augmentation.

(B) Prior to adopting uniform water recycling criteria for surface water augmentation, the department shall submit the proposed criteria to the expert panel convened pursuant to subdivision (a) of Section 13565. The expert panel shall review the proposed criteria and shall adopt a finding as to whether, in its expert opinion, the proposed criteria would adequately protect public health.

(C) The department shall not adopt uniform water recycling criteria for surface water augmentation pursuant to subparagraph (A), unless and until the expert panel adopts a finding that the proposed criteria would adequately protect public health.

(b) Adoption of uniform water recycling criteria by the department 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.

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011.)*

**§ 13562.5. [Groundwater replenishment emergency regulations]**

Notwithstanding any other law, no later than June 30, 2014, the department shall adopt, by emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, requirements for groundwater replenishment using recycled water. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department.

*(Added by Stats. 2014, Ch. 3, Sec. 15. Effective March 1, 2014.)*

**§ 13563. [Investigation and report to the Legislature on uniform water recycling criteria]**

(a) (1) On or before December 31, 2016, the department, in consultation with the state board, shall investigate and report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse.

(2) The department shall complete a public review draft of its report by September 1, 2016. The department shall provide the public not less than 45 days to review and comment on the public review draft.

(3) The department shall provide a final report to the Legislature by December 31, 2016. The department shall make the final report available to the public.

(b) In conducting the investigation pursuant to subdivision (a), the department shall examine all of the following:

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

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

(3) Available information on health effects.

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

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

(6) Any other scientific or technical issues that may be necessary, including, but not limited to, the need for additional research.

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

(2) A report to be submitted pursuant to paragraph (3) of subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code. *(Amended by Stats. 2013, Ch. 637, Sec. 1. Effective January 1, 2014.)*

**§ 13563.5. *[Progress report to Legislature]***

(a) The department, in consultation with the state board, shall report to the Legislature as part of the annual budget process, in each year from 2011 to 2016, inclusive, on the progress towards developing and adopting uniform water recycling criteria for surface water augmentation and its investigation of the feasibility of developing uniform water recycling criteria for direct potable reuse.

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

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

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011. Repealed as of January 1, 2017, by its own provisions.)*

**§ 13564. *[Considerations for recycling criteria for surface water augmentation]***

In developing uniform water recycling criteria for surface water augmentation, the department shall consider all of the following:

(a) The final report from the National Water Research Institute Independent Advisory Panel for the City of San Diego Indirect Potable Reuse/Reservoir Augmentation (IPR/RA) Demonstration Project.

(b) Monitoring results of research and studies regarding surface water augmentation.

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(c) Results of demonstration studies conducted for purposes of approval of projects using surface water augmentation.

(d) Epidemiological studies and risk assessments associated with projects using surface water augmentation.

(e) Applicability of the advanced treatment technologies required for recycled water projects, including, but not limited to, indirect potable reuse for groundwater recharge projects.

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

(g) Recommendations of the State of California Constituents of Emerging Concern Recycled Water Policy Science Advisory Panel.

(h) State funded research pursuant to Section 79144 and subdivision (b) of Section 79145.

(i) Research and recommendations from the United States Environmental Protection Agency Guidelines for Water Reuse.

(j) The National Research Council of the National Academies' report titled "Water Reuse: Potential for Expanding the Nation's Water Supply Through Reuse of Municipal Wastewater."

(k) Other relevant research and studies regarding indirect potable reuse of recycled water.

*(Amended by Stats. 2013, Ch. 637, Sec. 2. Effective January 1, 2014.)*

**§ 13565. [Expert panel and advisory group]**

(a) (1) On or before February 15, 2014, the department shall convene and administer an expert panel for purposes of advising the department on public health issues and scientific and technical matters regarding development of uniform water recycling criteria for indirect potable reuse through surface water augmentation and investigation of the feasibility of developing uniform water recycling criteria for direct potable reuse. The expert panel shall assess what, if any, additional areas of research are needed to be able to establish uniform regulatory criteria for direct potable reuse. The expert panel shall then recommend an approach for accomplishing any additional needed research regarding uniform criteria for direct potable reuse in a timely manner.

(2) The expert panel shall be comprised, at a minimum, of a toxicologist, an engineer licensed in the state with at least three years' experience in wastewater treatment, an engineer licensed in the state with at least three years' experience in treatment of drinking water supplies and knowledge of drinking water standards, an epidemiologist, a limnologist, a microbiologist, and a chemist. The department, in consultation with the advisory group and the state board, shall select the expert panel members.

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

(b) (1) On or before January 15, 2014, the department shall convene an advisory group, task force, or other group, comprised of no fewer than nine representatives of water and wastewater agencies, local public health officers, environmental organizations, environmental justice organizations, public health nongovernmental organizations, the department, the state board, the United States Environmental Protection Agency, ratepayer or taxpayer advocate organizations, and the business community, to advise the expert panel regarding the development of uniform water recycling criteria for direct potable reuse and the draft report required by Section 13563. The department, in consultation with the state board, shall select the advisory group members.

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

(3) In order to ensure public transparency, the advisory group established pursuant to paragraph (1) shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) On or before June 30, 2016, the department shall prepare a draft report summarizing the recommendations of the expert panel.

(d) The department may contract with a public university or other research institution with experience in convening expert panels on water quality or potable reuse to meet all or part of the requirements of this section should the department find that the research institution is better able to fulfill the requirements of this section by the required date.

*(Amended by Stats. 2013, Ch. 637, Sec. 3. Effective January 1, 2014.)*

**§ 13566. [Considerations for feasibility for direct potable reuse]**

In performing its investigation of the feasibility of developing the uniform water recycling criteria for direct potable reuse, the department shall consider all of the following:

(a) Recommendations from the expert panel appointed pursuant to subdivision (a) of Section 13565.

(b) Recommendations from an advisory group, task force, or other group appointed by the department pursuant to subdivision (b) of Section 13565.

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

(d) Research by the state board regarding unregulated pollutants, as developed pursuant to Section 10 of the recycled water policy adopted by state board Resolution No. 2009-0011.

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(e) Results of investigations pursuant to Section 13563.

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

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011.)*

**§ 13567. *[Consistency with Federal Act]***

An action authorized pursuant to this chapter shall be consistent, to the extent applicable, with the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.), this division, and the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code).

*(Added by Stats. 2010, Ch. 700, Sec. 3. Effective January 1, 2011.)*

**§ 13569. *[Acceptance of funds]***

The department may accept funds from nonstate sources and may expend these funds, upon appropriation by the Legislature, for the purposes of this chapter.

*(Amended by Stats. 2013, Ch. 637, Sec. 4. Effective January 1, 2014.)*