

**WATER CODE - WAT**

**DIVISION 6. CONSERVATION, DEVELOPMENT, AND UTILIZATION OF STATE  
WATER RESOURCES [10000 - 12999]**

*( Heading of Division 6 amended by Stats. 1957, Ch. 1932. )*

**PART 2.76. GROUNDWATER QUALITY MONITORING [10780 - 10783]**

*( Part 2.76 added by Stats. 2001, Ch. 522, Sec. 2. )*

**10780.**

This part shall be known and may be cited as the Groundwater Quality Monitoring Act of 2001.

*(Added by Stats. 2001, Ch. 522, Sec. 2. Effective January 1, 2002.)*

**10781.**

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

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

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

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

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

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

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

(E) Identifying the cost of any recommended measures.

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

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

- (A) The state board.
- (B) The department.
- (C) The State Department of Health Services.
- (D) The Department of Pesticide Regulation.
- (E) The Department of Toxic Substances Control.
- (F) The Department of Food and Agriculture.
- (c) Convene an advisory committee to the interagency task force, with a membership that includes all of the following:
  - (1) Two representatives of appropriate federal agencies, if those agencies wish to participate.
  - (2) Two representatives of public water systems, one of which shall be a representative of a retail water supplier.
  - (3) Two representatives of environmental organizations.
  - (4) Two representatives of the business community.
  - (5) One representative of a local agency that is currently implementing a plan pursuant to Part 2.75 (commencing with Section 10750).
  - (6) Two representatives of agriculture.
  - (7) Two representatives from groundwater management entities.
- (d)
  - (1) The members of the advisory committee may receive a per diem allowance for each day's attendance at a meeting of the advisory committee.
  - (2) The members of the advisory committee may be reimbursed for actual and necessary travel expenses incurred in connection with their official duties.

*(Added by Stats. 2001, Ch. 522, Sec. 2. Effective January 1, 2002.)*

#### 10782.

- (a) On or before June 1, 2009, the state board shall do both of the following:
  - (1) Identify and recommend to the Legislature funding options to extend, until January 1, 2024, the comprehensive monitoring program established in accordance with Section 10781.
  - (2) Make recommendations to enhance the public accessibility of information on groundwater conditions.
- (b) On or before January 1, 2012, the state board, in consultation with the State Department of Public Health, the Department of Water Resources, the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, and any other agencies as appropriate, shall submit to the Legislature a report that does all of the following:
  - (1) Identifies communities that rely on contaminated groundwater as a primary source of drinking water.
  - (2) Identifies in the groundwater sources for the communities described in paragraph (1) the principal contaminants and other constituents of concern, as

identified by the state board, affecting that groundwater and contamination levels.

(3) Identifies potential solutions and funding sources to clean up or treat groundwater or to provide alternative water supplies to ensure the provision of safe drinking water to communities identified in paragraph (1).

(c) The state board shall provide an opportunity for public comment on the report required pursuant to subdivision (b), prior to finalizing the report and submitting it to the Legislature.

*(Added by Stats. 2008, Ch. 670, Sec. 1. Effective January 1, 2009.)*

### 10782.3.

The state board shall use existing resources to carry out this part, and the operation of the program set forth in this part shall not supplant the operation of any other program required to be undertaken by the state board.

*(Added by Stats. 2001, Ch. 522, Sec. 2. Effective January 1, 2002.)*

### 10783.

(a) The Legislature finds and declares that protecting the state's groundwater for beneficial use, particularly sources and potential sources of drinking water, is of paramount concern.

(b) The Legislature further finds and declares that strategic, scientifically based groundwater monitoring of the state's oil and gas fields is critical to allaying the public's concerns regarding well stimulation treatments of oil and gas wells.

(c) On or before July 1, 2015, in order to assess the potential effects of well stimulation treatments, as defined in Article 3 (commencing with Section 3150) of Chapter 1 of Division 3 of the Public Resources Code, on the state's groundwater resources in a systematic way, the state board shall develop model groundwater monitoring criteria, to be implemented either on a well-by-well basis for a well subject to well stimulation treatment or on a regional scale. The model criteria shall address a range of spatial sampling scales from methods for conducting appropriate monitoring on individual oil and gas wells subject to a well stimulation treatment, to methods for conducting a regional groundwater monitoring program. The state board shall take into consideration the recommendations received pursuant to subdivision (d) and shall include in the model criteria, at a minimum, the components identified in subdivision (f). The state board shall prioritize monitoring of groundwater that is or has the potential to be a source of drinking water, but shall protect all waters designated for any beneficial use.

(d) The state board, in consultation with the Department of Conservation, Division of Oil, Gas, and Geothermal Resources, shall seek the advice of experts on the design of the model groundwater monitoring criteria. The experts shall assess and make recommendations to the state board on the model criteria. These recommendations shall prioritize implementation of regional groundwater monitoring programs statewide, as warranted, based upon the prevalence of well stimulation treatments of oil and gas wells and groundwater suitable as a source of drinking water.

(e) The state board shall also seek the advice of stakeholders representing the diverse interests of the oil- and gas-producing areas of the state. The stakeholders shall include the oil and gas industry, agriculture, environmental justice, and local government, among others, with regional representation commensurate with the intensity of oil and gas development in that area. The stakeholders shall also make recommendations to the state board regarding the development and implementation of groundwater monitoring criteria, including priority locations for implementation.

(f) The scope and nature of the model groundwater monitoring criteria shall include the determination of all of the following:

(1) An assessment of the areas to conduct groundwater quality monitoring and their appropriate boundaries.

(2) A list of the constituents to measure and assess water quality.

(3) The location, depth, and number of monitoring wells necessary to detect groundwater contamination at spatial scales ranging from an individual oil and gas well to a regional groundwater basin including one or more oil and gas fields.

(4) The frequency and duration of the monitoring.

(5) A threshold criteria indicating a transition from well-by-well monitoring to a regional monitoring program.

(6) Data collection and reporting protocols.

(7) Public access to the collected data under paragraph (6).

(g) Factors to consider in addressing subdivision (f) shall include, but are not limited to, all of the following:

(1) The existing quality and existing and potential use of the groundwater.

(2) Groundwater that is not a source of drinking water consistent with the United States Environmental Protection Agency's definition of an Underground Source of Drinking Water as containing less than 10,000 milligrams per liter total dissolved solids in groundwater (40 C.F.R. 144.3), including exempt aquifers pursuant to Section 146.4 of Title 40 of the Code of Federal Regulations.

(3) Proximity to human population, public water service wells, and private groundwater use, if known.

(4) The presence of existing oil and gas production fields, including the distribution, physical attributes, and operational status of oil and gas wells therein.

(5) Events, including well stimulation treatments and oil and gas well failures, among others, that have the potential to contaminate groundwater, appropriate monitoring to evaluate whether groundwater contamination can be attributable to a particular event, and any monitoring changes necessary if groundwater contamination is observed.

(h) (1) On or before January 1, 2016, the state board or appropriate regional board shall begin implementation of the regional groundwater monitoring programs based upon the model criteria developed under subdivision (c).

(2) In the absence of state implementation of a regional groundwater monitoring program, a well owner or operator may develop and implement an area-specific groundwater monitoring program, for the purpose of subparagraph (D) of paragraph (3) of subdivision (d) of Section 3160 of the Public Resources Code, based upon the model criteria developed under subdivision (c), subject to approval by the state or regional board, and that meets the requirements of this section.

(i) The model criteria for either a well-by-well basis for a well subject to well stimulation treatment, or for a regional groundwater monitoring program, shall be used to satisfy the permitting requirements for well stimulation treatments on oil and gas wells pursuant to Section 3160 of the Public Resources Code. The model criteria used on a well-by-well basis for a well subject to a well stimulation treatment shall be used where no regional groundwater monitoring plan approved by the state or regional board, if applicable, exists and has been implemented by either the state or regional board or the well owner or operator.

(j) The model criteria shall accommodate monitoring where surface access is limited. Monitoring is not required for oil and gas wells where the wells do not penetrate groundwater of beneficial use, as determined by a regional water quality control board, or solely penetrate exempt aquifers pursuant to Section 146.4 of Title 40 of the Code of Federal Regulations.

(k) (1) The model criteria and groundwater monitoring programs shall be reviewed and updated periodically, as needed.

(2) The use of the United States Environmental Protection Agency's definition of an Underground Source of Drinking Water as containing less than 10,000 milligrams per liter total dissolved solids in groundwater (40 C.F.R. 144.3) and whether exempt aquifers pursuant to Section 146.4 of Title 40 of the Code of Federal Regulations shall be subject to groundwater monitoring shall be reviewed by the state board through a public process on or before January 1, 2020.

(l) (1) All groundwater quality data collected pursuant to subparagraph (F) of paragraph (1) of subdivision (d) of Section 3160 of the Public Resources Code shall be submitted to the state board in an electronic format that is compatible with the state board's GeoTracker database, following the guidelines detailed in Chapter 30 (commencing with Section 3890) of Division 3 of Title 23 of the California Code of Regulations.

(2) A copy of the reported data under paragraph (1) shall be transferred by the state board to a public, nonprofit doctoral-degree-granting educational institution located in the San Joaquin Valley, administered pursuant to Section 9 of Article IX of the California Constitution, in order to form the basis of a comprehensive groundwater quality data repository to promote research, foster interinstitutional collaboration, and seek understanding of the numerous factors influencing the state's groundwater.

(m) The adoption of criteria required pursuant to this section is exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of criteria pursuant to this section shall instead be accomplished by means of a public process reasonably calculated to give those persons interested in their adoption an opportunity to be heard.

*(Amended by Stats. 2014, Ch. 35, Sec. 183. Effective June 20, 2014.)*