

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER
QUALITY CONTROL BOARDS
CHAPTER 24. GRANT AND LOAN PROGRAMS

**Article 2. Replacing, Removing, or Upgrading Petroleum Underground Storage Tanks
Grant and Loan Program**

§ 3420. Definitions.

The following definitions shall govern construction of this article:

~~“Act” means chapter 6.76 (commencing with section 25299.100) of division 20 of the Health and Safety Code.~~

“Air district” means an air pollution control district or air quality management district.

“Applicant” means a small business that owns or operates a the project tank tanks and is applying for a loan or a grant.

“Applicant’s principals” mean the primary persons in the small business, including any directors, managers, members, officers, or partners.

“Application” means the information contained in sections 3424 or 3425 which an applicant must provide to the Board when seeking a loan or a grant.

“Board” means the State Water Resources Control Board.

“Borrower” means an applicant whose application for a loan has been approved and a fully executed loan is in place. ~~Who has executed a loan agreement.~~

“California Environmental Reporting System” has the same meaning as defined in section 15110 of title 27 of the California Code of Regulations.

“Capacity” means how much debt an applicant can handle. To determine “capacity,” the Board analyzes an applicant’s income streams and any debts or outstanding obligations that may jeopardize repayment.

“Capital” means an applicant’s current available assets, including real estate, savings, and investments that the applicant could use to repay debt if the applicant’s income decreased.

“Character” means how an applicant has handled past debt obligations. To determine “character,” the Board will evaluate an applicant’s credit history and reliability to determine the likelihood that the applicant will repay all loan funds as required.

“Collateral” means equity in real and personal property that will be pledged as security for repayment of a loan, to be forfeited in the event of a default.

~~“Corrective action” has the same meaning as defined in section 2804 of title 23 of the California Code of Regulations.~~

~~“Environmental audit” means an investigation into all variables, including the applicant's operations and compliance with federal, state and local environmental laws, regulations and rulings, which would indicate whether the facility is, or is likely to become, contaminated.~~

~~“Financial responsibility” has the same meaning as defined in section 2804 of title 23 of the California Code of Regulations.~~

“Grant agreement” means a written agreement for a grant made in accordance with this article.

“Grantee” means an applicant for which an application for a grant has been approved and a fully executed grant is in place.

“Local agency” means a local agency authorized pursuant to Health and Safety Code section 25283 to implement chapter 6.7 of division 20 of the Health and Safety Code.

“Loan agreement” means a written agreement for a loan made in accordance with this article.

“Operator” has the same meaning as defined in section 25281 of the Health and Safety Code.

“Owner” has the same meaning as defined in section 25281 of the Health and Safety Code.

“Petroleum” has the same meaning as defined in section 2804 of title 23 of the California Code of Regulations.

“Project” means the work an applicant proposes to perform in order to upgrade, replace, or remove the project tanks. ~~conduct on a tank by removing, replacing, upgrading, or making other specified improvements to the tank, and/or taking corrective action.~~

“Project facility” means the facility, as defined by section 25281 of the Health and Safety Code, at which the project tanks are located.

~~“Project tank” means the tank that is the subject of the project.~~

“Project tanks” means one or more tanks that would be upgraded, replaced, or removed with loan or grant funds. “Project tanks” also includes one or more tanks that are upgraded to comply with the Enhanced Vapor Recovery Phase II regulations.

~~“Regional board” means a California Regional Water Quality Control Board.~~

~~“RUST Program program” means the program administered by the Board pursuant to chapter 6.76 of division 20 of the Health and Safety Code for the purpose of providing grants and loans for upgrading, replacing, or removing project tanks. the Act. The RUST program provides grants for specified improvements to petroleum underground storage tanks and provides loans for replacing, removing, upgrading, or performing corrective action related to petroleum underground storage tanks.~~

“Small business” means a business ~~which~~ that complies with all of the following:

- (a) The principal office is domiciled in California,
- (b) ~~The officers of the business~~ applicant’s principals are domiciled in California, and
- (c) The business meets either (1) or (2) below:
 - (1) For grants, the business meets both of the following:
 - (A) It is a small business as defined in section 632 of title 15 of the United States Code, and in the federal regulations adopted to implement that section as specified in part 121 (commencing with section 121.101) of chapter 1 of title 13 of the Code of Federal Regulations; and
 - (B) The business employs fewer than 20 full-time and part-time employees.
 - (2) For loans, the business meets one of the following:
 - (A) It is a small business as defined in section 632 of title 15 of the United States Code, and in the federal regulations adopted to implement that section as specified in part 121 (commencing with section 121.101) of chapter 1 of title 13 of the Code of Federal Regulations; or
 - (B) It employs fewer than 500 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation.

~~“Tank” means an “underground storage tank” as defined in section 2804 of title 23 of the California Code of Regulations~~ section 25281 of the Health and Safety Code, used for the purpose of storing petroleum. “Tank” also includes under-dispenser containment systems, spill containment systems, enhanced monitoring and control systems, and vapor recovery systems and dispensers connected to the underground piping and the underground storage tank.

~~“Underground storage tank” has the same meaning as defined in section 2804 of title 23 of the California Code of Regulations~~ means an “underground storage tank” as defined in section 25281 of the Health and Safety Code, used for the purpose of storing petroleum.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.100, 25299.101, 25299.102, 25299.103, 25299.104, 25299.105 and 25299.106, Health and Safety Code.

§ 3421. Grant and Loan Purposes

(a) Grant and loan funds may be used only to pay finance the costs necessary to upgrade, remove, or replace project tanks to comply with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations. the requirements of sections 25284.1, 25292.4, or 25292.5.

~~(b) Loan funds may be used to finance the costs necessary to upgrade, remove, or replace project tanks. Loan funds may also be used for corrective action costs and for costs necessary to comply with applicable local, state, or federal standards, including, but not limited to, any design, construction, monitoring, operation, or maintenance requirements adopted pursuant to Health and Safety Code sections 25284.1 and 25292.4.~~

(b) The following are eligible grant and loan costs:

(1) The cost of an “upgrade” or “repair” of the project tanks as defined in section 2611 of title 23 of the California Code of Regulations;

(2) The cost of an upgrade or repair of the project tanks to comply with the section 41954 of the Health and Safety Code and implementing regulations; and

(3) The cost of complying with the requirements of chapter 6.7 of division 20 of the Health and Safety Code and implementing regulations for replacing or removing the project tanks.

(c) The following are ineligible grant and loan costs:

(1) Any cost for work performed before the grantee or borrower has an executed RUST Program grant or loan;

(2) Any cost associated with repairing, remodeling, or reconstructing buildings, canopies, or landscaping or other improvements, including building permits and architecture plans;

(3) Any cost associated with removing, replacing, upgrading, or installing a dispenser, computer software or equipment that is not part of the monitoring system, or any other equipment that is not necessary to comply with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations;

(4) Any cost associated with installing an additional underground storage tank, dispenser, or associated equipment;

(5) Any cost associated with changing the type of petroleum stored in an underground storage tank;

(6) Any cost associated with the temporary or permanent closure-in-place of an underground storage tank;

- (7) Any cost associated with advertising or marketing, including signage, decals, or other markings or advertising;
- (8) Any cost associated with testing tanks except for testing required pursuant to chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations to ensure proper installation and operation of the project tanks after they have been upgraded, repaired, or replaced;
- (9) Any cost associated with collecting and analyzing soil samples except for soil samples required for the proper removal of the project tanks pursuant to chapter 6.7 of division 20 of the Health and Safety Code and implementing regulations to detect or confirm if an unauthorized release has occurred;
- (10) Any cost associated with corrective action as defined in section 25299.14 of the Health and Safety Code;
- (11) Any carrying cost, interest charge, or finance charge; and
- (12) Any other costs not directly related to the purposes set forth in subdivision (a).

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.104, ~~and 25299.105~~ and 25299.107, Health and Safety Code.

§ 3421.1 Maximum Lifetime Grant Amount

- (a) Except as provided in subdivision (b), the Board shall not provide a RUST Program grant to a person or entity of more than seventy thousand dollars (\$70,000).
- (b) (1) Notwithstanding subdivision (a), the Board may provide a grant of up to one hundred forty thousand dollars (\$140,000) to an applicant for a project that meets all of the following conditions:
 - (A) The project facility is a fueling station that is available for public use;
 - (B) There is no other fueling station available for public use within a radius of 15 miles from the project facility;
 - (C) The project tank will be removed and replaced; and
 - (D) The project tank is required to be permanently closed pursuant to section 25292.05 of the Health and Safety Code.
- (2) A grant issued pursuant to paragraph (1) does not count toward the maximum grant amount set forth in subdivision (a).

Authority cited: Section 25299.108, Health and Safety Code.
Reference: Section 25299.107, Health and Safety Code.

§ 3422. Loan Eligibility

~~(a)~~ An applicant shall be eligible for a loan ~~when~~ upon the determination of the Board of all of ~~determines~~ the following:

~~(1)~~ ~~(a)~~ The applicant is an existing small business ~~which~~ that owns or operates ~~one or more~~ the project tanks;

~~(2)~~ ~~No similar financing is available to the applicant. A determination that no similar financing is available shall consist of one of the following:~~

~~(A) The Board makes a finding that the applicant is unlikely to obtain financing for the project from private financial institutions, the Hazardous Substance Cleanup Financing Authority, the California Pollution Control Financing Authority, or other government agencies, under terms and conditions substantially similar to those available with a loan; or~~

~~(B) The Board locates alternative financing sources for the applicant, and the applicant submits evidence that these financing sources are unwilling to finance the project on terms and conditions substantially similar to those available with a loan;~~

~~(3)~~ ~~(b)~~ The applicant ~~has complied with, will comply with, or is exempt from,~~ is in compliance with the financial responsibility requirements specified in section 25299.31 of the sections 25292.2 and 25299.31 of the Health and Safety Code and with Subchapter IX (commencing with section 6991) of chapter 82 of title 42 of the United States Code, as it may be amended or supplemented, and the regulations adopted pursuant to that subchapter; and implementing regulations;

~~(4)~~ ~~(c)~~ All tanks owned or operated by applicant, ~~except for the project tanks,~~ are subject to ~~in~~ compliance with chapter 6.7 ~~(commencing with section 25280)~~ of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations; and

~~(d)~~ The project tanks are in compliance, or will be in compliance after the completion of the project, with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations;

~~(5)~~ ~~(e)~~ The applicant demonstrates the ability to repay the loan, and the availability of adequate collateral to secure the loan.

~~(f)~~ The total principal balance on RUST Program loans currently owed by the applicant at the time of the application is less than seven hundred forty thousand dollars (\$740,000).

~~(b) An applicant shall be eligible for a grant if the applicant owns or operates one or more project tanks and meets the requirements set forth in Health and Safety Code section 25299.105.~~

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, and 25299.102 ~~and 25299.105~~, Health and Safety Code.

§ 3422.1. Grant Eligibility

(a) An applicant shall be eligible for a grant upon a determination by the Board of all of the following:

(1) The applicant is a small business that owns or operates the project tanks;

(2) All tanks owned and operated by the applicant, except for the project tanks, are in compliance with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations;

(3) Except as provided in subdivision (b), the project facility meets either of the following:

(A) The project tanks are in compliance with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations; or

(B) All of the following are true:

i. The project tanks will be in compliance with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations following completion of the project;

ii. The applicant submitted the grant application no more than 180 days after the applicable local agency notified the applicant that the project tanks are not in compliance with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, or any implementing regulation;

iii. The project tanks are not currently red tagged pursuant to section 25292.3 of the Health and Safety Code; and

iv. The project facility, at the time of application, is not subject to any enforcement action seeking to impose administrative civil liability, civil liability, or criminal liability pursuant to chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, or any implementing regulation, unless the underlying violations that are the subject of that enforcement action have been corrected.

(4) Except as provided in subdivision (b), the project facility is, or was during any part of the two years preceding the submission of the application, legally in business retailing motor vehicle fuel;

(5) The project facility has sold, at retail, less than 1,500,000 gallons of gasoline annually for each of the two years preceding the submission of the grant application; and

(6) Except as provided in subdivision (b) of section 3421.1, the total of any previous RUST Program grants that the applicant has received is less than sixty-seven thousand dollars (\$67,000).

(b) The Board may waive the requirements of paragraphs (3) and (4) of subdivision (a) if all of the following are true:

(1) The project tanks will be removed and will not be replaced with new tanks; and

(2) The applicant is not eligible for a loan pursuant to section 3422.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.105 and 25299.107, Health and Safety Code.

§ 3423. Loan Terms

(a) All loans shall be secured by a Uniform Commercial Code Financing Statement. The term of the loan shall be for 20 years if the loan is also secured by real property. The term of the loan shall be for 10 years if the loan is not also secured by real property. The interest rate for loans is set pursuant to section 25299.104 of the Health and Safety Code at one-half of the most recent overall yield on general obligation bonds issued by the State Treasurer.

(b) The minimum loan amount is ten thousand dollars (\$10,000). The maximum loan amount is seven hundred fifty thousand dollars (\$750,000) less the total principal balance owed by the applicant on existing RUST Program loans at the time of the application.

~~(a)-(c) In addition to the loan terms established by Health and Safety Code section 25299.104, each~~ Each loan agreement shall include the following terms and conditions:

(1) A description of collateral securing the loan and conditions pertaining thereto, as determined by the Board, and agreed to by the applicant;_i

(2) A provision that the borrower shall pay a late fee charges in the event of late or incomplete payment of principal or interest of a default;_i

(3) An affirmative covenant by the borrower that it shall continuously comply with ~~any applicable federal, state, or local requirement, including requirements for operating tanks,~~ all permit requirements and applicable laws, including chapter 6.7 of division 20 of

the Health and Safety Code, section 41954 of the Health and Safety Code, and all implementing regulations throughout the term of the loan; ~~and~~

(4) ~~An agreement~~ A provision that all work funded with loan proceeds shall be performed by a contractor who holds current and active license(s) issued by the California Contractors State License Board and meets all applicable requirements set forth in section 2715 of chapter 16 of title 23 of the California Code of Regulations; ~~as defined in section 7026 of the Business and Professions Code, who has been licensed pursuant to section 7065 to 7077 of the Business and Professions Code.~~

(5) A provision that the borrower shall pay a loan origination fee of up to two percent of the requested amount of loan principal upon execution of the loan; and

(6) Any other provision that the Board determines is necessary to protect its position as a creditor, to ensure that the project meets all applicable laws, including chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and all implementing regulations, or to ensure the Board's compliance with applicable state funding laws.

~~(b)-(d) Disbursements shall be in stages, and each stage only may be made for costs invoiced to the borrower for completed work and each disbursement shall require satisfaction of conditions precedent to disbursement. No disbursements will be made for deposits. The stages, and conditions precedent to disbursement for each stage, are as follows: The Board may withhold the final 10 percent of the loan principal until completion of the project. Disbursement of loan funds is conditioned on the borrower's submittal to the Board of all of the following:~~

~~(1) If the borrower is removing the project tank, disbursement is conditioned on:~~

~~(A) (1) An executed contract for removal the project, by a licensed contractor including costs consistent with the project budget contained in the loan agreement;~~ ~~and~~

~~(B) A valid tank removal permit issued by the local agency authorizing removal of the project tank.~~

~~(2) Copies of all permits or regulatory approvals required for the project, including, if applicable, an authority to construct, permit to install, removal permit, or other construction permit issued for the project by the applicable local agency and air district;~~

~~(3) Original invoices supporting all requested costs, including all subcontractor(s) invoices; and~~

~~(4) Any other information or supporting documentation reasonably required by the Board to determine whether the requested cost is eligible under section 3421.~~

~~(2) If the borrower is upgrading the project tank, disbursement is conditioned on:~~

~~(A) An executed contract for upgrading the tank by a licensed contractor including costs consistent with the project budget contained in the loan agreement, and~~

~~(B) A valid tank removal permit issued by the local agency authorizing removal of the project tank if removal is part of the project.~~

~~(3) If the project is tank replacement, disbursement is conditioned on:~~

~~(A) An executed contract for removal of the old tank and installation of a new tank by a licensed contractor including costs consistent with the project budget contained in the loan agreement, and~~

~~(B) Valid permits issued by the local agency authorizing removal of the old tank and installation of the new tank.~~

~~(4) If the project is to take corrective action, disbursement is conditioned on:~~

~~(A) An executed contract for corrective action by a licensed contractor including costs consistent with the project budget contained in the loan agreement,~~

~~(B) A corrective action plan approved by the local agency or regional board for the project, and~~

~~(C) Any federal, state, or local permits required for the project,~~

Authority cited: Section 25299.108, Health and Safety Code.

Reference: ~~Section~~ Sections 25299.101 and 25299.104, Health and Safety Code.

§ 3423.1 Grant Terms

(a) Each grant agreement shall include the following terms and conditions:

(1) A covenant by the grantee to continuously comply with all permit requirements and applicable laws, including chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and all implementing regulations throughout the term of the grant;

(2) A provision that all work funded with grant proceeds shall be performed by a contractor who holds current and active license(s) issued by the California State Contractors License Board and meets all applicable requirements for service technicians set forth in section 2715 of chapter 16 of title 23 of the California Code of Regulations; and

(3) Any other provision that the Board determines is necessary to ensure that the grant meets all applicable laws, including chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and all implementing regulations and other state funding laws.

(b) The minimum amount of a RUST Program grant is three thousand dollars (\$3,000). Except as provided in subdivision (b) of section 3421.1, the maximum amount of a RUST Program grant is seventy thousand dollars (\$70,000).

(c) Disbursements only may be made for costs invoiced to the grantee for completed work and each disbursement shall require satisfaction of conditions precedent to disbursement. No disbursements will be made for deposits. The Board may withhold the final 10 percent of the grant proceeds until completion of the project. The conditions precedent to disbursement are as follows:

(1) An executed contract for removal, replacing, or upgrading a project tank, by a licensed contractor, including costs consistent with the project budget contained in the grant agreement;

(2) Copies of all permits or regulatory approvals required for the project, including, if applicable, an authority to construct, permit to install, removal permit, or other construction permit issued on the Project from the applicable regulatory agencies;

(3) Original invoices supporting all requested costs, including all subcontractor(s) invoices; and

(4) Any other information or supporting documentation reasonably required by the Board to determine whether the requested cost is eligible under section 3421.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.105 and 25299.107, Health and Safety Code.

~~§ 3424. Loan Application Content~~

~~A completed application for a loan shall consist of the following:~~

~~(a) The name, address and telephone number of the applicant, the name and title of applicant's principal contact person, a description of applicant's type of business and the date the applicant's business was established, the federal employer identification number, and the number of full- and part-time workers employed by the business. For any application where a business or individual proposes to guarantee the loan repayment, the application shall include information concerning the proposed guarantors, including current financial statements and tax returns for the previous two years, and a list of information concerning each guarantor, including his or her name, address, phone numbers, employer, and amount of time at current residence and employment;~~

~~(b) A list of all tanks located in California and owned or operated by the applicant, including the street address of each tank;~~

- ~~(c) Information indicating whether each tank owned or operated by the applicant is in compliance with federal, state, and local standards has a current operating permit issued to the owner or operator, or an explanation why a tank which the applicant owns or operates is exempt from the permit requirements of section 25284 of the Health and Safety Code. Evidence of a current permit shall consist of one of the following:~~
- ~~(1) Copy of a current operating permit issued by local agency; or~~
 - ~~(2) Both of the following:
 - ~~(A) A copy of: (i) a completed operating permit application form signed by an authorized representative of the local agency, (ii) an expired operating permit, or (iii) a permit renewal invoice; and~~
 - ~~(B) Evidence that the operating permit fee has been paid for each tank owned or operated by the applicant for the current year, consisting of a canceled check or a receipt from the local agency;~~~~
- ~~(d) An environmental audit;~~
- ~~(e) A description of any unauthorized releases from any tanks owned or operated by the applicant, including copies of correspondence with the local agency and regional board, and reports made to insurers;~~
- ~~(f) Information regarding the project for which funding is being requested, including:~~
- ~~(1) An explanation of the reasons the project tank is not in compliance with applicable federal, state, or local standards or will not be in compliance with federal, state, or local standards without the project;~~
 - ~~(2) A description of the project to be completed including an estimated timetable for completion of the project;~~
 - ~~(3) The reasons applicant believes that, upon completion of the project, the project tank will comply with federal, state and local standards;~~
 - ~~(4) Project components and cost estimates, including the name and applicable experience of the individual or firm preparing the cost estimates, and copies of any supporting invoices, estimates or contracts; and~~
 - ~~(5) Identification of any required federal, state, or local permits necessary to carry out the project;~~
- ~~(g) If the project includes corrective action, the following:~~
- ~~(1) A description, budget and timeline for each segment or activity comprising the corrective action, and the identified source of funding, including the loan, for each segment or activity; and~~

- ~~(2) A copy of the corrective action plan approved by the local agency or regional board;~~
- ~~(h) Information and documents demonstrating that the applicant is able to provide adequate collateral and repay the loan, including applicant's tax returns for the previous two (2) years, current personal and business financial statements, any history of insolvency, status of any tax audits or lawsuits, and the existence and solvency of any guarantors ;~~
- ~~(i) Loan amount requested and the term of the loan;~~
- ~~(j) Evidence that the applicant complies with applicable federal or state laws pertaining to financial responsibility. In the alternative, the applicant shall certify that it is exempt from financial responsibility requirements because the only tanks owned or operated by applicant will be removed as part of the project, or that financial responsibility requirements do not currently apply to the tanks, specifying reasons;~~
- ~~(k) Copy of any application filed with any federal, state, or local agency to obtain the permit(s) necessary to carry out the project; and~~
- ~~(l) Any other information or supporting documentation reasonably required by the Board to determine an applicant's eligibility, priority, or the amount of a loan.~~

~~Authority cited: Section 25299.108, Health and Safety Code.~~

~~Reference: Sections 25299.101, 25299.102 and 25299.103, Health and Safety Code.~~

§ 3424. Loan Application Content

A completed application for a loan shall consist of the following:

- (a) The applicant's legal name, the applicant's legal address or domicile, the applicant's mailing address, the project address, legal entity type and documentation to support the entity type, the number of full- and part-time workers employed by the business, and if applicable, the applicant's fictitious business name and documentation to support the fictitious business name;
- (b) Information for the contact person for the applicant, including that person's name and title, the telephone number where the contact person can be contacted during normal business hours, and the contact person's email address;
- (c) A list of the names, titles, and legal addresses or domiciles of each of the applicant's principals and a list of the names and ownership percentages of each of the applicant's owners, shareholders, or partners;
- (d) The name of each guarantor and the guarantor's mailing address, the telephone number where the guarantor can be contacted during normal business hours, and the guarantor's email address;

(e) A list of the project tanks and any other tanks owned and/or operated by the applicant at the project facility, the California Environmental Reporting System Identification Number for each tank, and all of the following:

(1) (A) A copy of the current operating permit issued by the applicable local agency for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the local agency, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable local agency;

(C) An explanation of why the tank is exempt from the permitting requirements of subdivision (a) of section 25284 of the Health and Safety Code; and

(D) An explanation of how the project will bring the project tanks into compliance with the permitting requirements of subdivision (a) of section 25284 of the Health and Safety Code in accordance with subdivision (f).

(2) (A) A copy of the current permit to operate issued by the applicable air district for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the air district, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable air district;

(C) An explanation of why the tank is exempt from the permitting requirements of section 41954 of the Health and Safety Code; or

(D) An explanation of how the project will bring the project tanks into compliance with the permitting requirements of section 41954 of the Health and Safety Code in accordance with subdivision (f).

(f) If the project tanks are not currently in compliance with all of the requirements of chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health

and Safety Code, and implementing regulations, the applicant must provide an explanation of how the project will bring the project tanks into compliance with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations.

(g) A list of all tanks owned and/or operated by the applicant, except the project tanks and any other tanks owned and/or operated by the applicant at the project facility, the street address of each tank, the California Environmental Reporting System Identification Number for each tank, and all of the following:

(1) (A) A copy of the current operating permit issued by the applicable local agency for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the local agency, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable local agency; or

(C) An explanation why the tank is exempt from the permitting requirements of subdivision (a) of section 25284 of the Health and Safety Code.

(2) (A) A copy of the current permit to operate issued by the applicable air district for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the air district, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable air district; or

(C) An explanation of why the tank is exempt from the permitting requirements of section 41954 of the Health and Safety Code.

(h) Photographs of the project facility and an environmental compliance and risks assessment of the project facility that includes all of the following:

- (1) The applicant's name, the project facility address, and the date the applicant acquired the property, if applicable;
- (2) Information and documentation regarding the project tanks, including:
 - (A) The date that the project tanks were installed;
 - (B) The date the applicant acquired and/or began operating the project tanks;
 - (C) The pipe replacement date, if the project tanks piping has ever been removed or replaced; and
 - (D) A description of any compliance issues with the project tanks or any other tanks at the project facility during the year preceding the application that have not yet been documented by local regulators or uploaded to the California Environmental Reporting System, including the most recent Designated UST Operator Visual Inspection Report and any other relevant documentation.
- (3) Information and documentation regarding the project facility's environmental risks, including:
 - (A) Information regarding whether any of the following are now or have ever been located on, stored at, or used on the project facility property:
 - (i) Aboveground storage tanks;
 - (ii) Sumps, septic tanks, pits, ponds, lagoons, oil/water separators, or clarifiers;
 - (iii) Chemicals, paints, petroleum products, or pesticides, maintenance or shop/service areas; and
 - (iv) Elevators or hydraulic lifts.
 - (B) A copy of any environmental assessments, audits, or inspections of the project facility property that have not been uploaded to the applicable reporting database.
- (4) Information and documentation regarding any environmental cleanup information that may have occurred at the project facility, including:
 - (A) The case identification number(s), lead cleanup oversight agency, and responsible party(ies) for any open cleanup cases for the project facility; and
 - (B) The funding source and program identification number for any funding from the Board for which the applicant has applied and/or received funding.
- (5) A certification by the applicant under penalty of perjury that all required supporting documentation is included; that all information provided is true and correct to the best

of the applicant's knowledge; and that the applicant will inform the State Water Board of any change to the information provided.

(6) Any other information or supporting documentation reasonably required by the Board to assess the environmental compliance and risks at the project facility.

(i) A description of any unauthorized release from any tank owned or operated by the applicant, including information regarding any claim made to the Petroleum Underground Storage Tank Cleanup Fund, any claim made to other sources of local, state, or federal funds, and any claim made to insurers for unauthorized releases from any tanks owned or operated by the applicant;

(j) Information and documents demonstrating that the applicant is in compliance with the financial responsibility requirements specified in sections 25292.2 and 25299.31 of the Health and Safety Code and with Subchapter IX (commencing with section 6991) of chapter 82 of title 42 of the United States Code, as it may be amended or supplemented, and the regulations adopted pursuant to that subchapter; and

(k) A complete legal description of the real property at which the project facility is located and either of the following:

(1) Information and documents showing that the applicant owns the real property at which the project facility is located; or

(2) A lease showing that the applicant is leasing the real property at which the project facility is located, including information regarding the length of the lease and the applicant's right to extend the lease, and information and documents demonstrating that the applicant has the authority and ability to perform the project.

(l) The applicant's most recent California or Federal Employee Tax Return and the Federal Tax Returns for the applicant, each of the applicant's principals, and each guarantor for the previous two years;

(m) Information and documents demonstrating that the applicant can provide adequate collateral and repay the loan, including all of the following:

(1) Information regarding any encumbrances on the collateral;

(2) Credit reports for the applicant, each of the applicant's principals, and each guarantor;

(3) Current financial statements, current and estimated schedules of debt, any history of insolvency, and information related to any tax audits during the last three years for the applicant; and

(4) Status of any current or pending litigation involving the applicant;

(n) Loan amount requested and the requested term of the loan;

- (o) Information regarding the project for which funding is being requested, including:
- (1) A complete description of the project the applicant will finance with the loan, including information and documentation to show that the project is eligible for loan funds in accordance with section 3421;
 - (2) Any communications from the applicable air district related to the project and any communications from the applicable local agency related to the project that have not previously been uploaded to the California Environmental Reporting System, including any notices of violation, inspection reports, and work plan approvals;
 - (3) Proposals, estimates, or contracts prepared by the applicant's selected contractor(s) and equipment supplier(s) and estimates of any project costs not included in those proposals, estimates, or contracts, including a detailed breakdown of all eligible and ineligible labor, equipment, permitting, and other project costs; and
 - (4) An estimated timetable for completion of the project.
- (p) Any other information or supporting documentation reasonably required by the Board to determine an applicant's eligibility or loan amount.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.102 and 25299.103, Health and Safety Code.

§ 3425. Grant Application Content

~~A completed application for a grant shall consist of the following:~~

- ~~(a) A description of the applicant's business, including the business' name, telephone number, street address, city, state, zip code, county, Federal employer identification number or social security number of the primary owner, and the number of full- and part-time workers employed by the business. A person working fewer than forty (40) hours a week shall be considered a part-time employee. The Board shall provide applicants written notification of the following information: "If a federal employer identification number is unavailable, a social security number is required. Section 25299.106 of the Health and Safety Code authorizes the Board to request this information. Pursuant to the Federal Privacy Act of 1974 (Public Law 93-579), you are hereby notified that it is mandatory to provide your social security number. Failure to provide the requested information will result in denial of the grant application. The social security number will be used by the State solely for the purpose of identifying the recipient of the grant funds. Applicants have the right to inspect records containing personal information maintained by the Board.";~~
- ~~(b) The names and addresses of each owner and corporate officer of the applicant. If an owner is a corporate entity, list the name and business address of its principal place of business;~~

- ~~(c) The amount of grant funding requested. The minimum amount of grant funding an applicant may apply for is three thousand dollars (\$3,000). The maximum amount of grant funding an applicant may apply for is fifty thousand dollars (\$50,000);~~
 - ~~(d) A description of the project the applicant will finance with the grant, including a list of all tanks to be improved with the funds from this grant, the actions required to comply with Health and Safety Code section 25284.1, 25292.4, or 25292.5, and a timetable for the completion of the project;~~
 - ~~(e) An estimate of the cost of the project, including the name and applicable experience of the individual or firm preparing the estimate, supporting documentation (such as invoices, bids, or contracts), and a list of the materials necessary to complete the project;~~
 - ~~(f) A statement indicating that, between January 1, 1997 and the date of the application, the applicant, a family member, or an affiliated entity has owned or operated all tanks included in subdivision (d);~~
 - ~~(g) A statement indicating that the facility where the project tank is located sold less than 900,000 gallons of gasoline at retail annually for each of the two years preceding the submission of this application;~~
 - ~~(h) A list of all tanks located in California and owned or operated by applicant, other than those listed in subdivision (d);~~
 - ~~(i) Evidence of the current operating permit for each tank identified in subdivision (d), consisting of one of the following:
 - ~~(1) Copy of a current operating permit issued by the local agency; or~~
 - ~~(2) Both of the following:
 - ~~(A) A copy of: (i) a completed operating permit application form signed by an authorized representative of the local agency, (ii) an expired operating permit, or (iii) a permit renewal invoice; and~~
 - ~~(B) Evidence that the operating permit fee has been paid for each tank owned or operated by the applicant for the current year, consisting of a canceled check or a receipt from the local agency;~~~~~~
- ~~(j) The applicant's most recent Employee Tax Return Form (IRS Form 941 or EDD Form DE-6);~~
- ~~(k) The applicant's most recent California Tax Return (FTB Form 540);~~
- ~~(l) Sales and Use Tax Return Form (BOE-401-GS, rev 60, 4-02) including Schedule G, Fuel Seller's Supplement, submitted by the applicant to the State Board of Equalization during the last eight (8) quarters; and~~

~~(m) Any other information or supporting documentation reasonably required by the Board to determine an applicant's eligibility, priority, or the amount of a grant.~~

~~Authority cited: Section 25299.108, Health and Safety Code.~~

~~Reference: Sections 25299.101, 25299.105, 25299.106 and 25299.107, Health and Safety Code.~~

§ 3425. Grant Application Content

A completed application for a grant shall consist of the following:

- (a) The applicant's legal name, the applicant's legal address or domicile, the applicant's mailing address, the project address, legal entity type and documentation to support the entity type, the number of full- and part-time workers employed by the business, and if applicable, the applicant's fictitious business name and documentation to support the fictitious business name;
- (b) Information for the contact person for the applicant, including that person's name and title, the telephone number where the contact person can be contacted during normal business hours, and the contact person's email address;
- (c) A list of the names, titles, and legal addresses or domiciles of each of the applicant's principals;
- (d) A list of the project tanks and any other tanks owned and/or operated by the applicant at the project facility, the California Environmental Reporting System Identification Number for each tank, and all of the following:
 - (1) (A) A copy of the current operating permit issued by the applicable local agency for each tank;
 - (B) Both of the following:
 - (i) A copy of a completed operating permit application form signed by an authorized representative of the local agency, an expired operating permit, or a permit renewal invoice; and
 - (ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable local agency;
 - (C) An explanation why the tank is exempt from the permitting requirements of subdivision (a) of section 25284 of the Health and Safety Code; and

(D) An explanation of how the project will bring the project tanks into compliance with the permitting requirements of subdivision (a) of section 25284 of the Health and Safety Code in accordance with subdivision (e).

(2) (A) A copy of the current permit to operate issued by the applicable air district for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the air district, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable air district;

(C) An explanation why the tank is exempt from the permitting requirements of section 41954 of the Health and Safety Code; or

(D) An explanation of how the project will bring the project tanks into compliance with the permitting requirements of section 41954 of the Health and Safety Code in accordance with subdivision (e).

(e) If the project tanks are not currently in compliance with all of the requirements of chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations, the applicant must provide an explanation of how the project will bring the project tanks into compliance with chapter 6.7 of division 20 of the Health and Safety Code, section 41954 of the Health and Safety Code, and implementing regulations.

(f) A list of all tanks owned and/or operated by the applicant, except the project tanks and any other tanks owned and/or operated by the applicant at the project facility, the street address of each tank, the California Environmental Reporting System Identification Number for each tank, and all of the following:

(1) (A) A copy of the current operating permit issued by the applicable local agency for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the local agency, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the

applicant for the current year, consisting of a canceled check or a receipt from the applicable local agency; or

(C) An explanation why the tank is exempt from the permitting requirements of subdivision (a) of section 25284 of the Health and Safety Code.

(2) (A) A copy of the current permit to operate issued by the applicable air district for each tank;

(B) Both of the following:

(i) A copy of a completed operating permit application form signed by an authorized representative of the air district, an expired operating permit, or a permit renewal invoice; and

(ii) Evidence that the operating permit fee has been paid for each of the underground storage tanks at the project facility owned and/or operated by the applicant for the current year, consisting of a canceled check or a receipt from the applicable air district; or

(C) An explanation why the tank is exempt from the permitting requirements of section 41954 of the Health and Safety Code.

(g) Information and documentation demonstrating one of the following:

(1) The project facility currently is legally in business retailing motor vehicle fuel;

(2) The project facility was legally in business retailing motor vehicle fuel during any part of the two years preceding the submission of the application, but is no longer retailing motor vehicle fuel; or

(3) The applicant meets the requirements of subdivision (b) of section 3422.1.

(h) The applicant's most recent California or Federal Employee Tax Return Employee Tax Return and the most recent Federal Tax Return for the applicant and each of the applicant's principals;

(i) (1) Except as provided in subparagraphs (ii) and (iii), the Sales and Use Tax Return Forms with all included schedules, submitted by the applicant to the California Department of Tax and Fee Administration for the project facility during the last eight quarters.

(2) If Sales and Use Tax Return Forms were not provided to the California Department of Tax and Fee Administration because during one or more of the last eight quarters the project facility was not in operation, the applicant shall sign and submit a written statement providing the dates of nonoperation.

(3) If the Sales and Use Tax Return Forms that were provided to the California Department of Tax and Fee Administration are unavailable to the applicant for one or more of the last eight quarters because the applicant did not own or operate the project facility for any part of the last eight quarters, the applicant shall submit other evidence that the project facility sold less than 1,500,000 gallons of gasoline at retail annually for each of the two years preceding the submission of this application.

(j) The amount of grant funding requested;

(k) Information regarding the project for which funding is being requested, including:

(1) A complete description of the project the applicant will finance with the grant, including information and documentation to show that the project is eligible for grant funds in accordance with section 3421;

(2) Any communications from the applicable air district related to the project and any communications from the applicable local agency and the applicable air district related to the project that have not previously been uploaded to the California Environmental Reporting System, including any notices of violation, inspection reports, and work plan approvals;

(3) Proposals, estimates, or contracts prepared by the applicant's selected contractor(s) and equipment supplier(s) and estimates of any project costs not included in those proposals, estimates, or contracts, including a detailed breakdown of all eligible and ineligible labor, equipment, permitting, and other project costs; and

(4) An estimated timetable for completion of the project.

(l) Information and documentation regarding whether the project tanks are located at a fueling station that is available for public use and there is no other fueling station available for public use within a radius of fifteen miles from the fueling station;

(m) Any applicant requesting that the Board waive paragraph (3) and (4) of subdivision (a) of section 3422.1 must provide information and documentation demonstrating that the applicant does not qualify for a loan pursuant to section 3422 because the applicant is not able to provide adequate collateral and repay the loan, including credit reports, tax returns for the previous year, current and estimated schedule of debt for the applicant and each of the applicant's principals and any additional information and documentation that the Board requests consistent with section 3424; and

(n) Any other information or supporting documentation reasonably required by the Board to determine an applicant's eligibility or grant amount.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.102, 25299.103, 25299.105, 25299.106 and 25299.107, Health and Safety Code.

§ 3426. Loan Application Process

- (a) Upon receipt by the Board of the completed application, the Board shall approve a request for a loan when it finds the following requirements are met:
- (1) The applicant meets the conditions of eligibility provided in ~~this chapter~~ section 3422;
 - ~~(2) The applicant has applied for all permits necessary to complete the project,~~
 - ~~(3) The business is creditworthy.~~
 - (2) The Board has evaluated the applicant's character, capital, and capacity and finds that the applicant is creditworthy;
 - ~~(4) (3) Any environmental audit supports, or does~~ The environmental compliance and risks at the project facility support, or do not materially adversely affect, the decision to make the loan;
 - ~~(5) (4) Guarantee(s), collateral, Collateral~~ and the source of repayment are sufficient for the proposed loan; and
 - ~~(6) (5) Funds are available to meet the funding request.~~
- (b) If any of the conditions and requirements of this section have not been met, the Board shall deny the application and determine what specific actions, if any, the applicant must take to obtain further Board evaluation and review of the application provide the reasons for its denial.
- (c) If the Board approves the loan, then the Board shall be authorized to enter into a loan agreement ~~which embodies the terms specified in~~ accordance with section 3423 ~~and any other items agreed to by the applicant and Board.~~
- (d) If the Board denies the application, the applicant shall have no right to administratively appeal the decision, but may reapply at any time unless the applicant is disqualified from participation in the RUST Program pursuant to subdivision (e) of section 3428.
- (e) If the Board determines there are not enough RUST loan funds available to fund all approved loans, the Board shall give priority to awarding loans to small businesses that meet the definition of small business specified in subdivision (d) of section 14837 of the Government Code.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.102, 25299.103 and 25299.104, Health and Safety Code.

§ 3427. Grant Application Process

~~(a) Subsequent to the award of a grant, and prior to the payment of the grant award, the applicant shall enter into a grant agreement with the Board.~~

(a) Upon receipt by the Board of the completed application, the Board shall approve a request for a grant when it finds the following requirements are met:

(1) The applicant meets the conditions of eligibility provided in section 3422.1; and

(2) Funds are available to meet the funding request.

(b) If any of the conditions and requirements of section 3422.1 have not been met, the Board shall deny the application and provide the reasons for its denial.

(c) If the Board approves the grant, then the Board shall be authorized to enter into a grant agreement in accordance with section 3423.1.

~~(b)~~ (d) If the Board denies the application, the applicant shall have no right to administratively appeal the decision, but may reapply at any time unless the applicant is disqualified from participation in the RUST Program pursuant to subdivision (e) of section 3428.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.105, 25299.106 and 25299.107, Health and Safety Code.

§ 3428. Misrepresentation; Repayment; Intentional or Reckless Acts; Disqualification of Applications

(a) An applicant that obtains grant or loan funds as a result of a material misrepresentation in the application or another submitted document shall repay to the Board the amount of grant or loan funds paid to the applicant.

(b) Any grant or loan funds paid to the applicant to which applicant is not entitled must be repaid to the Board immediately upon knowledge or notice that such a payment has been made and, in any event, not later than thirty (30) days after a written request for repayment by the Board.

(c) Moneys repaid to the Board pursuant to this section shall be deposited in the Petroleum Underground Storage Tank Financing Account established by ~~Health and Safety Code~~ section 25299.109 of the Health and Safety Code.

(d) Notwithstanding any other provision of this article, costs that result from the gross negligence or the intentional or reckless acts of the applicant or an agent, servant, employee or representative of the applicant, are not eligible for grant or loan funds pursuant to this chapter.

(e) The Board may disqualify an application and may bar the application and any other application submitted by the applicant from further participation in the RUST Program at any time if it is found that any application submitted or any other information submitted by the applicant contained a material error that was a result of misrepresentation, fraud, or other misconduct on the part of the applicant.

(f) Remedies under this section are in addition to, and do not supersede, or limit, any other civil, administrative, or criminal remedies, including, but not limited to, those remedies set forth under sections 25299.112, 25299.113, and 25299.113.1 of the Health and Safety Code.

Authority cited: Section 25299.108, Health and Safety Code.

Reference: Sections 25299.101, 25299.102, 25299.103, 25299.105, 25299.106 and 25299.109, Health and Safety Code.