

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING – DIVISION OF WATER QUALITY
OCTOBER 2, 2007**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING AMENDMENTS TO REGULATIONS REGARDING UNDERGROUND STORAGE TANKS AND DIRECTING THE EXECUTIVE DIRECTOR TO SUBMIT AMENDED REGULATIONS TO THE OFFICE OF ADMINISTRATIVE LAW FOR APPROVAL

DISCUSSION

Management of underground storage tank (USTs) in California is regulated under both federal and state law. Applicable federal law is found in the Resource Conservation and Recovery Act (RCRA), Subtitle I, Section 9003, and regulations implementing federal laws are found in Title 40 of the Code of Federal Regulations, Part 280. Applicable state law is incorporated into Health and Safety Code (HSC) Chapter 6.7, commencing with section 25280, and related regulations in Division 3, Chapter 16 of Title 23 of the California Code of Regulations (CCR).

State UST law became effective January 1, 1984. Since then, the Legislature has amended the law in response to either federal mandates relating to USTs, or new information regarding changing industry practices or the performance of USTs meeting then-current UST regulatory standards in California. Various amendments to Chapter 6.7 in recent years have imposed new construction and monitoring requirements for USTs that cannot be documented properly on the UST permit application forms currently in regulation. Therefore, updated versions of the UST permit application forms are needed.

Because the UST forms are contained in the Unified Program regulations set forth in the CCR at Title 27, Division 3, Subdivision 1, Chapter 6, substantive regulatory changes to the titles and content of these forms are being made in a related, concurrent California Environmental Protection Agency (Cal/EPA) rulemaking affecting Title 27 of the CCR. These proposed regulations, however, will amend the references to UST operating permit application "Form A," "Form B," and "Form C" throughout Chapter 16 of Title 23 of the CCR to conform to the changes to Title 27 proposed in the Cal/EPA rulemaking. The proposed amendments will also correct several non-substantive errors in the current Title 23 regulations, and implement the UST permit application and data reporting requirements of HSC, Chapter 6.7, sections 25286 and 25299.7.

The previous requirement for UST owners and operators to submit a written procedure for monitoring will also be amended to specify that the written procedure be submitted on a standard form. Using a standard form will make it easier for owners and operators to provide complete and accurate information about their monitoring program and will promote consistency among the more than 100 local regulatory agencies implementing the UST program in California. The monitoring form itself will be added to Title 27 of the CCR through the concurrent Cal/EPA rulemaking.

A Notice of Proposed Rulemaking announcing the proposed amendments to the regulations contained in Title 23 of the CCR was published in the May 18, 2007 issue of the California Regulatory Notice Register. A public hearing regarding the proposed regulations was held on

July 16, 2007 at the Cal/EPA Headquarters in Sacramento. The State Water Board received neither written nor oral comments, and no revisions have been made to the proposed regulations.

POLICY ISSUE

Should the State Water Board adopt the amendments to the UST regulations as proposed?

FISCAL ISSUE

The proposed regulations will have no significant fiscal impact on tank owners, including federal, state, and local governmental agencies that own USTs.

REGIONAL BOARD IMPACT

None

STAFF RECOMMENDATION

Staff recommends adoption of the proposed amendments to the UST regulations and their submittal to the Office of Administrative Law for approval.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2007-

A RESOLUTION ADOPTING AMENDMENTS TO REGULATIONS REGARDING
UNDERGROUND STORAGE TANKS AND DIRECTING
THE EXECUTIVE DIRECTOR TO SUBMIT AMENDED REGULATIONS TO THE
OFFICE OF ADMINISTRATIVE LAW FOR APPROVAL

WHEREAS:

1. Underground storage tanks (UST) used for the storage of hazardous substances are potential sources of soil and surface and groundwater pollution, and unauthorized releases may pose other dangers to public health and the environment.
2. The State Water Resources Control Board (State Water Board) oversees implementation of the UST Program element of the Unified Program, and local agencies administer the program through UST permitting, compliance inspection, and enforcement.
3. Health and Safety Code Section 25299.33 of Chapter 6.7 authorizes the State Water Board to adopt regulations to implement Chapter 6.7.
4. On May 18, 2007, the Office of Administrative Law, through its California Regulatory Notice Register, published the State Water Board's notice of proposed rulemaking to adopt amendments to the UST regulations set forth in Chapter 16 of Division 3 of Title 23 of the California Code of Regulations.
5. On July 16, 2007, the State Water Board held a public hearing, pursuant to Government Code section 11346.8, regarding the proposed regulations and closed the public comment period. During the comment period and public hearing, the State Water Board did not receive any written or oral comments on the proposed regulations. The State Water Board did not make any revisions to the proposed text of the regulations as originally made available to the public.
6. The State Water Board has determined that it is appropriate and desirable to adopt the proposed amendments to the UST regulations identified in the notice of proposed rulemaking.

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board adopts the proposed amendments to the Underground Storage Tank regulations contained in Chapter 16 of Division 3 of Title 23 of the California Code of Regulations, which will become effective as provided by the

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California Administrative Procedures Act upon approval by the Office of Administrative Law and filing with the Secretary of State, and directs the Executive Director to submit the proposed regulations to the Office of Administrative Law for approval.

CERTIFICATION

The undersigned Acting Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 2, 2007.

Jeanine Townsend
Acting Clerk to the Board