

STATE WATER BOARD
RESOLUTION NO. 2005-0075

RESOLUTION ADOPTING EMERGENCY REGULATIONS NECESSARY TO IMPLEMENT THE ORPHAN SITE CLEANUP SUBACCOUNT ESTABLISHED BY ASSEMBLY BILL 1906 (LOWENTHAL)

WHEREAS:

1. Brownfields are abandoned or underused commercial or industrial properties where the redevelopment is impeded by contamination, and many Brownfields in California were former gasoline service stations. Petroleum contamination from underground storage tanks (UST) at these Brownfields pose a threat to human health and the environment;
2. The State Water Resources Control Board (State Water Board) implements the Petroleum UST Cleanup Fund (Fund), which provides financial assistance to UST owners and operators for cleanup costs. Some responsible parties at Brownfields or other persons interested in cleaning up and redeveloping Brownfields may not qualify for the Fund, and the substantial cost of cleanup is often an impediment to actual cleanup at a Brownfield;
3. Assembly Bill 1906 (Lowenthal) establishes the UST Petroleum Contamination Orphan Site Cleanup Subaccount (Subaccount). Pursuant to section 25299.50.2 of the Health and Safety Code, \$10,000,000 per year for years 2005, 2006, and 2007, is transferred from the Fund to the Subaccount to address petroleum contamination from USTs at sites that qualify as Brownfields;
4. The regulations establish a grant program for the removal of leaking USTs and the investigation and cleanup of petroleum contamination from USTs at Brownfields. Specifically, the proposed regulations define eligible sites, eligible applicants, and eligible costs, and establish eligibility requirements, ranking criteria, and funding limitations. Adoption of the proposed regulations is necessary to begin issuing these grants;
5. Government Code section 11346.1 provides for the adoption of emergency regulations when necessary for the immediate preservation of the public peace, health, safety or general welfare; and;
6. It is appropriate to adopt the proposed regulations on an emergency basis because expediting the removal of leaking USTs and the cleanup of petroleum contamination from USTs will preserve the public peace, health and safety or the general welfare.

THEREFORE IT BE RESOLVED THAT:


The State Water Board:

1. Determines that a condition of emergency exists for the purposes of Government Code section 11346.1, subdivision (b) justifying the immediate adoption of the proposed regulations in order to preserve the public peace, health and safety, and general welfare; and

- Adopts on an emergency basis article 7 to **Title 23**, California Code of Regulations, division 3, chapter 18, and authorizes the Executive Director to transmit article 7 to the Office of Administrative Law for filing with the Secretary of State.

CERTIFICATION

The undersigned, 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 20, 2005.


Debbie Irvin
Clerk to the Board

