

**Proposed Amendments
to the
California Code of Regulations
Title 23. Waters
Division 3. State Water Resources Control Board
and Regional Water Quality Control Boards
Chapter 16. Underground Tank Regulations**

**FINAL
STATEMENT OF REASONS**

**August 2019
State of California
State Water Resources Control Board
Division of Water Quality**

Article 3. New Underground Storage Tank Design, Construction, and Monitoring Requirements

UPDATE OF INITIAL STATEMENT OF REASONS

The State Water Resources Control Board (State Water Board) has made non-substantial modifications to the proposed regulations for the purpose of meeting requirements for incorporating by reference the 2019 version of American Society and Testing Materials (ASTM) standard D7467 for diesel containing up to 20 percent biodiesel (B20). The State Water Board did not identify that it was incorporating by reference ASTM standard D7467 in the Initial Statement of Reasons. The State Water Board is hereby incorporating by reference ASTM standard D7467 in the proposed regulations. A copy of ASTM standard D7467 may be obtained from ASTM International's web site at astm.org/Standards/D7467.htm.

Incorporating ASTM standard D7467 by reference is necessary because the standard is a 22-page, technical, copyrighted document. Therefore, it would be cumbersome, unduly expensive, and otherwise impractical to publish the document in the California Code of Regulations.

The modifications to the proposed regulations to incorporate by reference ASTM standard D7467 in the proposed regulations do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision (i.e., changes without regulatory effect). Consequently, no additional notice or public comment period was required.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM MAY 10, 2019 TO JULY 1, 2019

List of Comment Letters
Public Comments Regarding Biodiesel UST Regulations

Commenter Number:	Commenter:	Submitted by:
1	California Advanced Biofuels Alliance and National Biodiesel Board	Tyson Keever and Shelby Neal
2	California Fuels and Convenience Alliance	Samuel Bayless
3	Renewable Energy Group	Scott Hedderich
4	General Public (This comment letter is a copy of the same form letter, or of similar text, in support of the proposed regulations that the State Water Board received from 68 other individuals)	Greg Jones

General Comments

Comment Summary 1: Commenters expressed their support for the proposed regulations. (Commenter Numbers 1, 2, 3, & 4)

Response: The State Water Board thanks the commenters for their support.

Comment Summary 2: Commenter requests mandatory training of UST inspectors to avoid inconsistent enforcement of the proposed regulations because of the lack of knowledge regarding B20. (Commenter Number 2)

Response: UST inspectors are required by California Code of Regulations, title 23, division 3, chapter 16, section 2715(g) to obtain certification by passing the International Code Council California UST Inspector exam. This certification must be renewed every 24 months through passing the exam or continuing education. Passing the exam and continuing education is to establish competency of UST inspector regulatory knowledge. Continuing education will provide UST inspectors the necessary education on B20 and assist with consistent enforcement of the proposed regulations. In addition, the State Water Board continually assists UST inspectors with consistent statewide implementation of new requirements by providing training in the form of webinars, training classes at the Annual California Certified Unified Program Agency Training Conference, informational documents, and UST Program guidance letters.

Comment Summary 3: Commenter expressed concern with the limited availability of UST components approved for use with B20. (Commenter Number 2)

Response: UST components do not need to be approved for use with B20 for a double-walled UST owner or operator to store B20. UST components satisfying the approval requirements for the storage of diesel are acceptable for the storage of B20 in double-walled USTs, unless it is determined by the independent testing organization, California register professional engineer, or manufacturer, as applicable, that the UST component is not compatible with B20.

Comment Summary 4: Commenter suggests that it is vital to have UST components that are compatible with diesel that contains more than 20 percent biodiesel. (Commenter Number 2)

Response: This comment is beyond the scope of this regulatory package. These proposed amendments are limited to the approval requirements for UST components used for the storage of B20.

Comment Summary 5: Commenter requests the State Water Board harmonize the UST regulations with the California Air Resources Board's (CARB's) goal to reduce greenhouse gas emissions. (Commenter Number 4)

Response: The State Water Board agrees with the importance of harmonization with CARB's goal to reduce greenhouse gas emissions and will continue to coordinate with CARB on future regulations.

LOCAL MANDATE

The State Water Board has determined that the proposed action will not impose a mandate on local agencies or school districts, or a mandate which requires

reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 2. Additionally, the State Water Board has determined that the proposed action will not result in costs or savings to any state agency or any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code, other nondiscretionary costs or savings imposed on local agencies, or costs or savings in federal funding to the State.

ALTERNATIVES DETERMINATION

The State Water Board has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be: 1) more effective in carrying out the purpose of the regulations; 2) more effective and less burdensome to affected private persons, industry, local governments, and state agencies; 3) more cost effective to affected private persons, industry, local governments, and state agencies; 4) equally effective in implementing the statutory policy or other provision of law; or 5) more consistent with California's existing requirements and groundwater protection policies. The amendments to the regulations are necessary to allow the storage of B20 meeting the American Society of Testing and Materials International standard D7467 in double-walled underground storage tanks. The amendments do not duplicate or conflict with any federal law or federal regulation.