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## State Water Resources Control Board

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

#### Notice of Proposed Regulatory Action

#### Replacing, Removing, or Upgrading Petroleum Underground Storage Tanks Grant and Loan Program Regulations

**NOTICE IS HEREBY GIVEN** that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the Replacing, Removing, or Upgrading Petroleum Underground Storage Tanks (RUST) Grant and Loan Program Regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

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#### ***PROPOSED REGULATORY ACTION***

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 24 (commencing with section 3420) (RUST Regulations) to update the RUST Regulations to implement amendments to the Health and Safety Code and to make them more specific and consistent with current operational practices.

#### ***PUBLIC HEARING***

A public hearing has not been scheduled for this proposed action. However, as provided in Government Code section 11346.8, any interested person, or his or her duly authorized representative, may request a public hearing if the request is submitted in writing in the manner described below to the State Water Board no later than 15 days prior to the close of the written comment period. If a request for a public hearing is made, the State Water Board shall, to the extent practicable, provide notice of the time, date, and place of the hearing in accordance with Government Code section 11346.4 by mailing the notice to every person who has filed a request for notice with the State Water Board. In addition, as prescribed by Government Code section 11340.85, notice may be provided by means of electronic communication to those persons who have expressly indicated a willingness to receive notice by this means.

## WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board. The written comment period closes on August 2, 2022 at 12:00 p.m. The State Water Board only will consider comments received by that time.

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov), by fax at (916) 341-5620, or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)  
1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814 (by hand delivery)

Please also indicate in the subject line, “**Comment Letter – Proposed RUST Regulations.**” Hand and special deliveries should also be addressed to Ms. Townsend at the address above. Couriers delivering comments must check in with lobby security and have them contact Ms. Townsend at (916) 341-5600. Due to the limitations of the email system, emails larger than 15 megabytes are rejected and cannot be delivered or received by the State Water Board. Therefore, the State Water Board requests that comments larger than 15 megabytes be submitted under separate emails.

To be added to the mailing list for this rulemaking and to receive notification of updates of this rulemaking, you may subscribe to the listserve for “**Underground Storage Tank Cleanup Fund**” by going to:

[http://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml).

You also may call Mr. Robert Smith at (916) 323-2095 or email him at [Robert.Smith@waterboards.ca.gov](mailto:Robert.Smith@waterboards.ca.gov). **Persons who receive this notice by mail or electronic mail are already on the mailing list.**

## AUTHORITY AND REFERENCE

Health and Safety Code section 25299.108 authorizes the State Water Board to adopt regulations to implement chapter 6.76 of division 20 of the Health and Safety Code. References to specific code sections are identified in the proposed amendments to the proposed regulations.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Water State Water Board proposes to amend the RUST Regulations to update the RUST Regulations and make them more specific and consistent with current operational practices. The State Water Board further proposes to amend the RUST Regulations to implement amendments to the Health and Safety Code enacted by Chapter 296, Statutes of 2020 and those changes to the Health and Safety Code

enacted by Chapter 69, Statutes of 2009, Chapter 649, Statutes of 2009, Chapter 640, Statutes of 2013, and Chapter 547, Statutes of 2014 that still are in effect.

Where appropriate the State Water Board proposes to amend the RUST grant and RUST loan requirements to make the requirements for grants and loans similar, which makes it easier for those applicants who are applying for both a RUST grant and a RUST loan for their project. Consistency between the requirements for RUST grants and RUST loans also serves to streamline the State Water Board's eligibility review.

The State Water Board also proposes certain amendments to the RUST Regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision (e.g., changes without regulatory effect). These amendments without regulatory effect include changes made for purposes of revising structure, syntax, cross-references, grammar, punctuation, or renumbering or relocating regulatory provisions. For consistency purposes, the citation format for statutory and regulatory references is made consistent throughout the RUST Regulations. To the extent that many of these amendments without regulatory effect are non-substantive and their purpose is self-evident or merely editorial, they are not discussed herein.

The State Water Board did not rely upon any other technical, theoretical, or empirical studies, reports, or documents in proposing these amendments to the RUST Regulations. The State Water Board relied on an Economic and Fiscal Impact Statement (Form 399) and an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3, subdivision (b) in proposing these amendments to the RUST Regulations. The specific purpose and the basis for the State Water Board's determination of the necessity of each amendment are explained in the Initial Statement of Reasons.

#### *Evaluation of Inconsistency/ Incompatibility with Existing State Regulations*

The State Water Board has determined that these proposed RUST Regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the State Water Board has concluded that these are the only regulations that concern RUST grant and loans.

#### **LOCAL MANDATE**

This proposal does 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 4.

#### **COST OR SAVINGS TO STATE AGENCIES**

The State Water Board has determined that there are no fiscal impacts on any State agency or program because the regulations because the proposed regulatory

amendments are to implement amendments to the Health and Safety Code impacting the existing program to provide RUST grants and loans to small businesses program and to make them more specific and consistent with current operational practices.

### **COST OR SAVINGS IMPOSED ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The State Water Board has determined that there is no cost or savings imposed on local agencies or school districts as a result of the proposed regulations, or other nondiscretionary costs or savings imposed on local agencies or school districts.

### **COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE OF CALIFORNIA**

The State Water Board has determined that there is no cost or savings in Federal funding to California as a result of the proposed regulatory action.

### **EFFECT ON HOUSING COSTS**

The State Water Board has determined that the proposed regulatory action will have no effect on housing costs.

### **BUSINESS IMPACT/SMALL BUSINESS**

The proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulatory action will have a slight beneficial affect on small businesses in California because it will improve the RUST program allowing for small businesses to obtain both grants and loans. These grants and loans will help small business UST owners and operators to stay in or get back into compliance with regulatory requirements.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The State Water Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

### **RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

The State Water Board has determined that the cost for a typical RUST grant or loan applicant in California to comply with the proposed amendments is zero.

#### *Assessment Regarding Effect on Jobs and Businesses*

The State Water Board has determined that the proposed regulatory action will not have an effect on the creation or elimination of jobs within California as a result of the proposed amendments because the amendments to the RUST Regulations do not

create or eliminate a significant enough workload to support the creation or elimination of jobs within California. The proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California.

The proposed regulatory action will not have an effect on the creation or elimination of businesses within California as a result of the proposed amendments because the amendments to the RUST Regulations do not create or eliminate a significant enough workload to support the creation or elimination of businesses within California. Nor will the proposed regulatory action have an effect on the expansion of businesses within California as a result of the proposed amendments because the amendments to the RUST Regulations do not create or enough workload to support the expansion of businesses currently doing business within California.

#### *Benefit of the Regulation for Public Health, Safety, and Welfare*

The proposed regulatory action will implement statutory changes and update the RUST Regulations to make them more specific and consistent with existing practice, which will assist the State Water Board in decreasing the processing time for RUST applications, execution of grant and loan agreements, and processing of invoicing. As a result, RUST projects may be completed, decreasing the risk of soil and groundwater contamination resulting from UST releases, improving the health and welfare of California residents, worker safety, and the State's environment.

### **CONSIDERATION OF ALTERNATIVES**

The State Water Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention: 1) would be more effective in carrying out the purpose for which the proposed regulations are proposed; 2) would be as effective and less burdensome to affected private persons, industry, local governments, and state agencies; or 3) would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND THE RULEMAKING FILE**

The State Water Board has prepared an Initial Statement of Reasons for the proposed action. The statement includes the specific purpose for the regulation proposed for adoption and the rationale for the State Water Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulation is proposed. All the information upon which the proposed regulation is based is contained in the rulemaking file. The Initial Statement of Reasons, the express terms of the proposed regulations, and the rulemaking file are available from the contact person listed below or at the website listed below.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding any hearing that is requested and considering all timely and relevant comments received, the State Water Board may adopt the proposed regulation substantially as described in this notice. If the State Water Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before the State Water Board adopts the regulation as modified. A copy of any modified regulation may be obtained by contacting Mr. Robert Smith, the primary contact person identified below. The State Water Board will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting either of the persons listed below. A copy also may be accessed on the State Water Board website previously identified.

### **CONTACT PERSONS**

Requests for copies of the text of the proposed regulation, the Statement of Reasons, or other information upon which the rulemaking is based, or other inquiries should be addressed to the following:

Name: Robert Smith, Staff Services Manager I  
Address: State Water Resources Control Board  
Division of Financial Assistance  
1001 "I" Street  
Sacramento, CA 95814  
Telephone No.: (916) 323-2095  
E-mail address: [Robert.Smith@waterboards.ca.gov](mailto:Robert.Smith@waterboards.ca.gov)

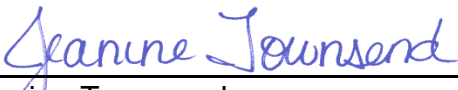
The backup contact person is:

Name: McLean Reich, Staff Services Manager II  
Address: State Water Resources Control Board  
Division of Financial Assistance  
1001 "I" Street  
Sacramento, CA 95814  
Telephone No.: (916) 341-5765  
E-mail address: [McLean.Reich@waterboards.ca.gov](mailto:McLean.Reich@waterboards.ca.gov)

The documents relating to this proposed action may also be found on the State Water Board's website at the following address:

[https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust\\_regulations.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust_regulations.html)

June 17, 2022  
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Date

  
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Jeanine Townsend  
Clerk to the Board