

**PROPOSED AMENDMENTS TO THE
CALIFORNIA CODE OF REGULATIONS
TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD
CHAPTER 24. GRANT AND LOAN PROGRAM
ARTICLE 2. REPLACING, REMOVING, OR UPGRADING PETROLEUM
UNDERGROUND STORAGE TANKS GRANT AND LOAN PROGRAM**

INITIAL STATEMENT OF REASONS

JANUARY 2005

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF FINANCIAL ASSISTANCE**

Chapter 24. Grant and Loan Programs
Article 2. Replacing, Removing, or Upgrading Petroleum Underground Storage
Tanks Grant and Loan Program

Technical, Theoretical, and Empirical Study, Report, or Similar Document Relied Upon

The State Water Resources Control Board (SWRCB) did not rely on technical, theoretical, or empirical studies, reports, or similar documents in proposing these regulatory amendments.

Reasonable Alternatives to the Proposed Regulations

No reasonable alternatives to the proposed regulations were presented to or identified by the SWRCB.

Reasonable Alternatives to the Proposed Regulations That Would Lessen Any Adverse Impact on Small Business

No reasonable alternatives to the proposed regulations were presented to or identified by the SWRCB that would lessen any adverse impact on small business.

Evidence Supporting the Initial Determination of No Significant Adverse Economic Impact on Small Business

The SWRCB has determined that the proposed regulations will not have a significant adverse economic impact on business. The proposed regulations are intended to implement a program to provide grant and loan funding to small businesses that own or operate petroleum underground storage tanks to assist with certain expenses related to underground storage tanks. Consequently, this program and its implementing regulations will not have an adverse economic impact on small business.

Efforts to Avoid Unnecessary Duplication of or Conflicts with Federal Regulations

The proposed regulations do not unnecessarily duplicate or conflict with federal law or federal regulations. The SWRCB does not propose to adopt regulations inconsistent with those contained in the Code of Federal Regulations.

ARTICLE 2. IN GENERAL

Specific Purpose and Necessity of the Proposed Regulations

The purpose of the proposed regulations is to implement and make specific chapter 6.76 (commencing with section 25299.100) of division 20 of the Health and Safety Code (the Act). The Act requires the SWRCB to establish a program to provide grants and loans to eligible small businesses to assist with the expense of replacing, removing, upgrading, or making other specified improvements to petroleum underground storage tanks (RUST program). The proposed regulations are necessary because section 25299.108 of the Health and Safety Code requires the SWRCB to adopt emergency regulations to implement and make specific the statutory provisions of the RUST program.

SECTION 3420. DEFINITIONS

Specific Purpose and Necessity of the Proposed Regulation

This section defines nineteen terms that are used in the proposed regulations. The terms have meanings specific to the context of their use in the RUST program. The definitions are necessary to avoid any confusion or ambiguity that might result if these terms were not defined.

SECTION 3421. GRANT AND LOAN PURPOSES

Specific Purpose and Necessity of the Proposed Regulation

Section 3421 describes the purposes for which RUST program grants and loans may be used. RUST funds are provided only for a small number of specified uses. The regulation is necessary to provide a clear and concise statement of the appropriate uses of RUST funds. This easily accessible information will facilitate decisionmaking by potential applicants and improve the efficiency of the application process.

SECTION 3422. ELIGIBILITY

Specific Purpose and Necessity of the Proposed Regulation

Section 3422 specifies the requirements that must be satisfied for an applicant to obtain a RUST grant or loan. The regulation is necessary to make specific the statutory requirements applicable to loan applicants, particularly the requirement for “no similar financing.” It is also necessary to clarify that the statutory requirements applicable to grant applicants include the requirement that an applicant must be the owner or operator of a project tank.

SECTION 3423. LOAN TERMS

Specific Purpose and Necessity of the Proposed Regulation

Section 3423 specifies certain mandatory terms that must be included in the loan agreement in addition to those terms specified in the Act. This section also specifies the stages in which loan monies may be disbursed and the conditions precedent to disbursement for each stage that must be satisfied by the borrower. The regulation is necessary to ensure consistency and uniformity among all RUST program loan agreements and in the conditions for loan disbursements.

SECTION 3424. LOAN APPLICATION CONTENT

Specific Purpose and Necessity of the Proposed Regulation

Section 3424 specifies the information and documentation that an applicant is required to provide to apply for a RUST loan. The regulation is necessary to ensure that an applicant provides to the SWRCB adequate information to enable the SWRCB to determine whether the applicant meets the requirements to obtain a RUST loan.

SECTION 3425. GRANT APPLICATION CONTENT

Specific Purpose and Necessity of the Proposed Regulation

Section 3425 specifies the information and documentation that an applicant is required to provide to apply for a RUST grant. The regulation is necessary to ensure that an applicant provides to the SWRCB adequate information to enable the SWRCB to determine whether the applicant meets the requirements to obtain a RUST grant.

SECTION 3426. LOAN APPLICATION PROCESS

Specific Purpose and Necessity of the Proposed Regulation

Section 3426 describes the SWRCB's process for evaluating applications for RUST loans and the actions that may be taken by the SWRCB or an applicant once an application has been approved or denied. The regulation authorizes the SWRCB to enter into loan agreements with successful loan applicants and requires the SWRCB to inform unsuccessful applicants of what actions, if any, the applicants must take to obtain further review. The regulation also provides that unsuccessful applicants may reapply for a loan, but do not have administrative appeal rights. This regulation is necessary to inform

RUST loan applicants of loan determination procedures and to provide for the consistent and timely disbursement of RUST loan funds.

SECTION 3427. GRANT APPLICATION PROCESS

Specific Purpose and Necessity of the Proposed Regulation

Section 3427 requires successful grant applicants to enter into grant agreements with the SWRCB prior to receipt of RUST grant funds. This section also provides that unsuccessful grant applicants may reapply for a grant, but do not have administrative appeal rights. This regulation is necessary to provide for the consistent and timely disbursement of RUST grant funds.

SECTION 3428. MISREPRESENTATION; REPAYMENT

Specific Purpose and Necessity of the Proposed Regulation

Section 3428 requires grant and loan applicants, who have obtained RUST funds as the result of a material misrepresentation in the grant or loan application or other documents submitted to the SWRCB, to repay to the SWRCB the amount of RUST funds paid. This section requires further that the repaid funds shall be deposited into the RUST program account. This regulation is necessary to protect RUST funds by authorizing the SWRCB to collect and redeposit any RUST funds that have been paid as a result of an applicant's material misrepresentation.