

State Water Resources Control Board

TITLE 23. WATERS DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS CHAPTER 16. UNDERGROUND STORAGE TANK REGULATIONS

Notice of Proposed Regulatory Action

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 16 (regulations), to clarify or make specific the method of reporting for existing reporting requirements. These amendments are consistent with existing requirements in Health and Safety Code section 25404, subdivision (e)(4) and California Code of Regulations, title 27, division 1, subdivision 4, chapter 1, section 15100 et seq. Some of the proposed amendments require electronic submittal of data and documents via the internet using readily available technology.

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 **Tuesday, May 10, 2016 at 12:00 p.m.** The State Water Board will only consider comments received by that time.

Please send comment letters to Ms. Jeanine Townsend, Clerk to the Board, by email at commentletters@waterboards.ca.gov (916) 341-5620 (fax), 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, 24th Floor, Sacramento, CA 95814 (by hand delivery)

Please also indicate in the subject line, “**Comment Letter – Proposed UST 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. We request 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 listserv for “**Program Requirements and Guidance**” by going to http://www.waterboards.ca.gov/resources/email_subscriptions/. You may also call Ms. Laura Fisher at (916) 341-5870 or email her at Laura.Fisher@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 25299.3 authorizes the State Water Board to adopt regulations to implement chapter 6.7 of division 20 of the Health and Safety Code. The proposed regulations implement, interpret, or make specific chapter 6.7 of division 20 of the Health and Safety Code, commencing with section 25280. References to specific code sections are identified in the proposed amendments to the regulations.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The proposed regulations clarify or make specific existing reporting requirements under the UST Program by stating the method by which UST owners or operators and local agencies must submit specified information and documents to the State Water Board, Regional Water Quality Control Boards (Regional Water Boards), or the applicable local agency as defined in Health and Safety Code section 25283.

Specifically, certain existing reporting requirements are amended to require that the submittal be made electronically through the California Environmental Reporting System (CERS), consistent with Health and Safety Code section 25404, subdivision (e)(4). These provisions do not include any new reporting requirements; however, the existing reporting requirements are amended to make specific the method of reporting.

In addition to the requirements to submit specified information or documents through CERS, existing regulations also include requirements for submission of other information or documents that cannot be submitted through CERS and in certain instances must be submitted electronically through GeoTracker, the state Geographic Information System mapping database. As amended, the regulations specify what information or documents must be submitted through GeoTracker, for the purpose of preventing confusion between GeoTracker and CERS requirements. These amendments are consistent with California Code of Regulations, title 23, division 3, chapter 30, section 3890 et seq. and do not change existing reporting requirements.

As amended, the regulations also provide that where a submittal method is not specified, the information or document may be provided by hand-delivery, mail, or facsimile or other electronic methods, unless otherwise directed by the State Water Board, Regional Water Board, or local

agency that will receive the submittal. These amendments are for clarification purposes and do not change existing reporting requirements.

Finally, as explained in the statement of reasons, the State Water Board is proposing certain amendments to the regulations that 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). These amendments without regulatory effect include changes made for purposes of revising structure, syntax, cross-references, grammar, punctuation, or renumbering or relocating regulatory provisions.

Some of the proposed amendments require electronic submittal of data and documents via the internet using readily available technology. To assist those regulated businesses that do not have a computer with internet access, some local agencies have made computers available at their offices or other locations within their jurisdictions for regulated businesses to use to submit program information. In addition, some inspectors carry laptop or tablet computers with them when they inspect regulated businesses and assist regulated businesses to submit program information.

The proposed regulations will improve the health and welfare of California residents, worker safety, and the state's environment because emergency response personnel and agencies will have instant electronic access to facility and chemical information needed to mitigate environmental hazards. In addition, the State Water Board, Regional Water Boards, and local agencies will be able to identify and correct potential sources of environmental risk more efficiently by analyzing the data in CERS.

The State Water Board evaluated whether there were any other regulations that would relate to or affect this area and found that these are the only regulations concerning reporting requirements of USTs. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

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 division 4 of the Government Code.

COST OR SAVINGS TO STATE AGENCIES

The State Water Board has determined that there is no cost or savings to state agencies as a result of the proposed regulations.

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

The State Water Board has determined that there is no cost or savings in federal funding to the state as a result of the proposed regulations.

BUSINESS IMPACT/ SMALL BUSINESS

The proposed regulations do not impose any new reporting requirements. The proposed regulations only amend the method of reporting for specified information and documents, consistent with existing requirements in Health and Safety Code section 25404, subdivision (e)(4) and California Code of Regulations, title 27, division 1, subdivision 4, chapter 1, section 15100 et seq., and for clarification purposes. Because the proposed regulations only implement requirements for the method of reporting, they will not have a significant, statewide adverse economic impact directly affecting businesses, 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 because the new regulations only amend the method of reporting for specified information and documents. Some of the proposed amendments require electronic submittal of data and documents instead of the current method of filling out and mailing paper forms. Electronic submittal is via the internet using readily available technology. Local agencies are assisting those regulated businesses that do not have a computer with internet access by making computers with internet access readily available for the businesses to use.

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 regulations.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The State Water Board has determined that the proposed regulatory action will have no effect on the creation or elimination of jobs within California. Nor will the proposed regulatory action have any effect on the creation of new businesses, the elimination of existing businesses, or the expansion of existing businesses doing business within California.

The proposed regulations will improve the health and welfare of California residents, worker safety, and the state's environment because emergency response personnel and agencies will have instant electronic access to facility and chemical information needed to mitigate environmental hazards. In addition, the State Water Board, Regional Water Quality Control Boards, and local agencies will be able to identify and correct potential sources of environmental risk more efficiently by analyzing the data in CERS.

EFFECT ON HOUSING COSTS

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

BUSINESS REPORTING REQUIREMENT

The State Water Board finds that it is necessary for the health, safety, or welfare of the people of this state that the proposed regulation which requires a report apply to businesses.

ALTERNATIVES

The State Water Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulation during the written comment period or at a hearing, if a hearing is requested, on this matter.

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 regulations 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 regulations are proposed. All the information upon which the proposed regulations are 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 regulations 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 regulations as modified. A copy of any modified regulations may be obtained by contacting Ms. Laura Fisher, 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 may also be accessed on the State Water Board website identified below.

CONTACT PERSONS

Requests of copies of the text of the proposed regulations, the statement of reasons, or other information upon which the rulemaking is based, or other inquiries should be addressed to the following:

Name: Laura Fisher
Address: State Water Resources Control Board
Division of Water Quality
1001 "I" Street
Sacramento, CA 95814
Telephone No.: (916) 341-5870
E-mail address: Laura.Fisher@waterboards.ca.gov

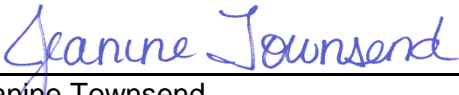
The backup contact person is:

Name: Gabriel Herrera
Address: State Water Resources Control Board
Division of Water Quality
1001 "I" Street
Sacramento, CA 95814
Telephone No.: (916) 319-9128
E-mail address: Gabriel.Herrera@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: http://www.waterboards.ca.gov/water_issues/programs/ust/.

March 25, 2016

Date



Jeanine Townsend
Clerk to the Board