

**Proposed Amendments
to the
California Code of Regulations
Title 23. Water
Division 3. State Water Resources Control Board
and Regional Water Quality Control Boards
Chapter 24. Grant and Loan Programs
Article 2. Replacing, Removing, or Upgrading
Petroleum Underground Storage Tanks Grant
and Loan Program**

**FINAL
STATEMENT OF REASONS**

**December 2022
State Water Resources Control Board
Division of Financial Assistance**

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

UPDATE OF INITIAL STATEMENT OF REASONS

The information contained herein is updated as follows:

The Notice of Proposed Rulemaking for these regulations was published in the California Notice Register on June 17, 2022. The State Water Resources Control Board (State Water Board) did not receive any comments during the 45-day comment period of June 17, 2022 to August 2, 2022. The State Water Board has not made any modifications to the proposed regulations.

In the Initial Statement of Reasons, the State Water Board stated that it relied on the Economic and Fiscal Impact Statement (Form 399) and an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3. The Economic and Fiscal Impact Statement (Form 399) was provided to the public for review and inspection during the 45-day comment period and is part of the rulemaking record. The State Water Board mailed a Notice of Correction correcting the link provided in the Initial Statement of Reasons to the State Water Board's website where the Economic and Fiscal Impact Statement (Form 399) on June 24, 2022.

On page 4 of the Economic and Fiscal Impact Statement (Form 399), the box for 2(f) under section A, Fiscal Effect on Local Government, was checked in error stating that the proposed regulations provide for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each. There is no fiscal impact to local government as a result of the proposed regulations. Therefore, the Economic and Fiscal Impact Statement (Form 399) has been revised to uncheck this box.

The State Water Board included an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3 as part of the Initial Statement of Reasons. The State Water Board has prepared this Revised Economic Impact Analysis/Assessment to provide additional information and clarification.

REVISED ECONOMIC IMPACT ANALYSIS/ ASSESSMENT

The State Water Board has prepared this Revised Economic Impact Analysis/Assessment in accordance with Government Code section 11346.3, subdivision (b).

Article 2. REPLACING, REMOVING, OR UPGRADING PETROLEUM UNDERGROUND STORAGE TANKS GRANT AND LOAN PROGRAM

The proposed regulations will affect small business underground storage tank (UST) owners and operators who apply for Replacing, Removing, or Upgrading Underground

Storage Tanks (RUST) grant and/or loan funds to meet statutory and regulatory requirements for USTs, including the requirement to permanently remove all single-walled USTs on or before December 31, 2025. The proposed regulations will benefit RUST applicants and their contractors by providing them a clear understanding of all of the requirements for obtaining and receiving RUST funding, streamlining the review of applications, and ensuring consistency in application of the requirements for RUST funding. In the past 3 years, the RUST Program has seen an average increase of 40 percent in submitted applications for RUST grant and/or loan funding, with 102 submitted applications in Fiscal Year 2021-22. It is expected that an increase of prospective applicants will submit applications to the RUST grant and loan program after the effective date due to the approaching deadline that all single walled tanks be removed. Those prospective applicants will benefit from the proposed regulations.

Cost Impact

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.

Creation or Elimination of Jobs within California

The State Water Board estimates 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.'

Creation of New Businesses or the Elimination of Existing Businesses within California

The State Water Board estimates that 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.

Expansion of Businesses Currently Doing Business with California

The State Water Board estimates that the proposed regulatory action will not 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.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

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, more 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.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business

The proposed regulatory actions will not directly affect businesses statewide because amendments to the RUST Regulations do not create a significant enough workload to support the creation of a new business, elimination of an existing business, or the expansion of an existing business doing business in California.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Small Businesses

The proposed regulatory actions will not directly affect small businesses statewide because amendments to the RUST Regulations do not create a significant enough workload to support the creation of a new small business, elimination of an existing small business, or the expansion of an existing small business doing business in California.

Evidence Supporting Finding of No Fiscal Impact on Local or State Government

The proposed regulatory actions do not affect any local entity or program or any State agency or program. Local entities or programs and State agencies or program are not eligible for RUST grant or loan funding.

PUBLIC COMMENTS

The State Water Board did not receive any public comments during the 45-Day comment period from June 17, 2022 to August 2, 2022.

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) as 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 and equally effective in implementing the statutory policy or other provisions of law. The amendments to the regulations are necessary to effectively: 1) provide RUST applicants and their contractors a clear understanding of all of the requirements for obtaining and receiving RUST funding by making the regulations more specific and consistent with Health and Safety Code requirements and current operational practices; 2) ensure that the requirements for obtaining and receiving RUST funding may not be applied consistently; and 3) implement the requirements to receive RUST funding consistent with the Health and Safety Code. The amendments do not duplicate or conflict with any federal law or federal regulation.