

STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION - DIVISION OF FINANCIAL ASSISTANCE  
APRIL 21, 2005

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING THE PERMANENT REGULATIONS FOR THE REPLACING, REMOVING, OR UPGRADING PETROLEUM UNDERGROUND STORAGE TANKS (RUST) GRANT AND LOAN PROGRAM

**DISCUSSION**

Chapter 6.76 of division 20 of the Health and Safety Code (Stats. 2004, ch. 624) establishes the Petroleum Underground Storage Tank Financing Account (Financing Account) in the State Treasury and requires the State Water Resources Control Board (State Water Board) to use the Financing Account to conduct the RUST loan and grant program to assist small businesses in replacing, removing, upgrading, or making other specified improvements to petroleum underground storage tanks. Chapter 6.76 details requirements that must be met by loan and grant applicants in order for the State Water Board to approve a RUST loan or grant.

Currently, the State Water Board conducts the RUST loan and grant program pursuant to emergency regulations that were adopted at a State Water Board meeting held on November 18, 2004. The emergency regulations became effective on December 3, 2004, the date they were approved by the Office of Administrative Law as an emergency regulatory action. In accordance with statutory mandate, these emergency regulations shall be repealed 180 days after their effective date unless the State Water Board complies with the regular rulemaking procedures of the California Administrative Procedure Act required to make the emergency regulations permanent. Therefore, it is necessary for the State Water Board to adopt the emergency regulations as permanent regulations before they are repealed by operation of law on June 1, 2005.

A Notice of Proposed Rulemaking was published on January 14, 2005, and the 45-day comment period ended on February 28, 2005. State Water Board staff did not receive a request for a hearing or receive any written comments during this public comment period. After the proposed permanent regulations were noticed for public comment, State Water Board staff made several non-substantial changes to the proposed regulations. Because these changes were non-substantial, however, no additional notice or public comment period was required.

**POLICY ISSUE**

Should the State Water Board adopt a resolution to adopt permanent regulations implementing the RUST grant and loan program?

**FISCAL IMPACT**

The proposed regulations implement the statute and do not impose any additional fiscal impacts.

**REGIONAL WATER BOARD IMPACT**

None.

**STAFF RECOMMENDATION**

Staff recommends adoption of the proposed resolution approving the proposed permanent regulations, and authorizing the Executive Director to transmit the proposed regulations to the Office of Administrative Law.

STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2005 -

RESOLUTION ADOPTING PERMANENT REGULATIONS IMPLEMENTING THE GRANT AND  
LOAN PROGRAM TO ASSIST SMALL BUSINESSES REPLACING, REMOVING, OR  
UPGRADING PETROLEUM UNDERGROUND STORAGE TANKS

WHEREAS:

1. Chapter 6.76 (commencing with section 25299.100) of division 20 of the Health and Safety Code authorizes the State Water Resources Control Board (State Water Board) to administer a grant and loan program to assist small businesses in replacing, removing, upgrading, or making other specified improvements to petroleum underground storage tanks (RUST program);
2. Section 25299.108 of the Health and Safety Code requires the State Water Board to adopt regulations to implement and make specific the RUST program;
3. The State Water Board adopted emergency regulations for the RUST program on November 18, 2004. The existing emergency regulations will expire on June 1, 2005, unless the State Water Board submits to the Office of Administrative law the proposed permanent regulations, the rulemaking record, and a certification that the regular rulemaking procedures prescribed in Government Code sections 11346.2 to 11347.3, inclusive, were satisfied before this deadline;
4. The State Water Board published a Notice of Proposed Rulemaking on January 14, 2005, and circulated the proposed permanent regulations for public comment for 45 days;
5. The 45-day public comment period closed on February 28, 2005; and
6. The State Water Board did not receive any comments or requests for a public hearing during this public comment period. After the Notice of Proposed Rulemaking was published, State Water Board staff made several non-substantial changes to the proposed regulations. These changes do not require any additional notice or public comment period and will be addressed in the Final Statement of Reasons.

THEREFORE, BE IT RESOLVED THAT:

The State Water Resources Control Board adopts the provisions of California Code of Regulations, title 23, division 3, chapter 24, sections 3420 through 3428 as proposed permanent regulations, and the Executive Director is authorized to transmit the proposed permanent regulations to the Office of Administrative Law for filing with the Secretary of State.

CERTIFICATION

The undersigned, clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 21, 2005.

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Debbie Irvin

Clerk to the Board