

**TITLE 23: CALIFORNIA CODE OF REGULATIONS - WATERS
DIVISION 3: STATE WATER RESOURCES CONTROL BOARD
(SWRCB)**

CHAPTER 30: ELECTRONIC SUBMITTAL OF INFORMATION

AND

**TITLE 27: CALIFORNIA CODE OF REGULATIONS
ENVIRONMENTAL PROTECTION
DIVISION 3: ENVIRONMENTAL INFORMATION COLLECTION
AND REPORTING STANDARDS – DATA DICTIONARIES
SUBDIVISION 1: HAZARDOUS MATERIALS REGULATION AND
BUSINESS INFORMATION
SUBDIVISION 2: ELECTRONIC REPORTING**

FINAL STATEMENT OF REASONS

PROBLEM, REQUIREMENT, OR OTHER CONDITION ADDRESSED

Sections 2729 and 2729.1 in Title 23 of the California Code of Regulations (CCR) were repealed by operation of law on December 29, 2003. These proposed regulations replace those sections with expanded versions in sections 3890, 3891, 3892, 3893, 3894 and 3895 in Title 23 of the CCR. In addition, new data dictionaries (the format for electronic submittals of information) for these regulations are added to Title 27 in coordination with existing Cal/EPA Unified Program data dictionaries, providing a unified cross program structure for electronic reporting of data. The existing Unified Program data dictionaries are moved from their current location as Appendices in Subdivision 4, Division 1 in Title 27 into separate chapters in Subdivision 1 of a new Division 3 in Title 27. The new data dictionaries for electronic submittals are added as new chapters under Subdivision 2, Division 3 in Title 27 of the CCR.

These regulatory changes implement Water Code (WC) sections 13195 through 13198 and expand electronic submittal requirements to all the State Water Resource Control Board's (SWRCB's) and Regional Water Quality Control Board's (RWQCB's) groundwater cleanup programs. These groundwater cleanup programs require responsible parties to submit reports concerning subsurface investigations or remediation of unauthorized releases of waste or hazardous substances. These changes will also ensure a uniform standard for future electronic reporting requirements that other Cal/EPA programs may utilize.

The amendments to Chapter 30 in Title 23 of the CCR will:

1. Require persons responsible for submitting reports to the State Board, a regional board, or a local agency to submit the reports electronically over the Internet to the SWRCB's Geotracker database.
2. Require electronic submission of reports containing soil, vapor or water data for subsurface investigation and remediation at sites in the leaking Underground Storage Tank (UST); Spills, Leaks, Investigation and Cleanup (SLIC); Department of Defense (DOD); and Land Disposal Programs.
3. Require electronic submittal of laboratory data generated by analysis of soil, vapor and water chemistry.
4. Require electronic submittal of exact latitude and longitude of permanent monitoring wells.
5. Require electronic submittal of the surveyed elevation and depth to water of any permanent monitoring well sampled.
6. Require separate electronic submittal of the site map, depth to the screened interval and the length of the screened interval for any permanent monitoring well.
7. Require electronic submittal of boring logs and a complete copy of reports in PDF format.

The data dictionary amendments to Division 3 in Title 27 of the CCR will:

1. Relocate the Unified Program data dictionaries that apply to facility, hazardous materials, underground storage tank, hazardous waste, Certified Unified Program Agency (CUPA) reporting and CUPA Forms into this new Division as separate chapters under Subdivision 1 of Division 3.
2. Create new chapters for monitoring and release information required as part of SWRCB electronic submittal requirements into Subdivision 2 of Division 3. These data dictionaries will include: laboratory results, sampling information, surface location, elevation, groundwater depth measurements, construction data for permanent monitoring wells and remediation treatment information.

General Statement of Reasons

These regulations formally implement the requirement in AB 2886 (Ch. 727, Stats. of 2000) for the SWRCB to adopt regulations for electronic submittal of information. They replace the emergency regulations that were adopted on April 26, 2001. The emergency regulations required electronic submittal of reports containing soil or water analysis data required as part of subsurface investigation and cleanup for the Underground Storage Tank (UST) Program. Currently, UST site data are submitted electronically to

Geotracker, the SWRCB's Internet-accessible database that was developed pursuant to AB 592 (Kuehl, Ch. 814, Stats. Of 1997) and SB 1189 (Hayden, Ch. 185, Stats. of 1997).

The emergency regulations required that laboratory and other report data for the UST program sites be submitted in a standardized electronic format capable of transfer directly into Geotracker. This has enhanced the capability of the SWRCB to utilize Geotracker in assessing and monitoring the threat of petroleum constituents including methyl tertiary butyl ether (MTBE) to drinking water wells and other sources of drinking water, and the health and safety of the public. This has provided decision-makers and stakeholders with more accurate, up-to-date, accessible, and complete statewide information concerning UST cleanup sites. Regulatory agencies (local agencies, RWQCBs and the SWRCB) as well as water providers, responsible parties, other stakeholders and the public, have easy access to the analytical data and can use these data to make better, quicker, and more factually-based decisions. Having accurate and timely soil, vapor and groundwater quality data for UST cleanup sites in Geotracker, allows regulators and other stakeholders to prioritize and manage threats to drinking water supplies more effectively and efficiently.

The need to evaluate spatial and temporal trends of groundwater data is the same at all cleanup sites, regardless of program. Electronic submittal of information is the only viable method of ensuring that data are consistently and reliably entered. Therefore, these regulations are to extend this method to all groundwater cleanup programs at the SWRCB and RWQCBs. This will allow the tools now available to the UST program to be used by other programs, greatly enhancing our overall ability to manage groundwater improvement efforts in California. The proposed regulations make permanent the electronic submittal requirements for UST cleanup sites, which were repealed by operation of law on December 29, 2003, expand information required to be submitted, and extend the scope of sites to include all the SWRCB's and RWQCB's groundwater cleanup programs.

One other feature of these new regulations is to provide a unified cross-program structure for electronic reporting. New data dictionaries (the format for electronic data submissions) for these regulations are added to Title 27 in coordination with existing Cal/EPA Unified Program data dictionaries. The existing Unified Program data dictionaries are moved from their current location as Appendices in Subdivision 4, Division 1 in Title 27 into separate chapters in Subdivision 1 of a new Division 3 in Title 27. The new data dictionaries for electronic submittal are added as new chapters under Subdivision 2, Division 3 in Title 27 of the CCR. This is in accordance with directive by the Legislature in 2000 to establish "... an electronic geographical information management system capable of receiving all data collected by the Unified Program Agencies, and to make all non-confidential data available on the Internet." Section 25404(e)(2) states clearly that this responsibility shall be carried out by the Unified Program. The Unified Program Electronic Data Dictionary, as developed, was the first of its kind in the state. The dictionary was developed as an appendix to Title 27, CCR. However, as the use of electronic environmental data reporting from businesses and local agencies to state and national agencies increases, the use of data dictionaries is also

increasing. It makes sense that environmental data dictionaries should be in the same location in the California Code of Regulations, facilitating access by the public and stakeholders.

EFFORT TO AVOID DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Based on careful review of the federal groundwater cleanup statutes and regulations, the SWRCB has determined that none of the proposed regulations conflict with or duplicate federal rules. The SWRCB proposes to adopt these regulations, which are different from federal regulations, because these differing state regulations are authorized by Water Code sections 13195 through 13198.

ALTERNATIVES CONSIDERED

The SWRCB has considered alternatives to these regulations within the scope allowed by Water Code sections 13195 through 13198. The SWRCB has determined that no alternative to these regulations would be more effective or as effective and less burdensome to the affected industry, local governments, and state agencies than the proposed regulations.

DETAILED STATEMENT OF REASONS

The specific reason for each regulation is summarized below.

Section 3890. General Intent, Content, and Applicability of Regulations

This section is added to provide an overview of the regulations. The regulations require persons responsible for submitting reports to submit the reports electronically over the Internet to the SWRCB's Geotracker database. This is intended to provide regulatory agencies and the public ready access to statewide soil, vapor and water quality data related to a subsurface investigation or remediation in one single, accessible format to better assess and monitor the contamination or threatened contamination of waters of the state. The electronic reporting requirements in this Chapter are intended to replace the requirement for the submittal of paper copies of the reports. Beginning July 1, 2005, the regulations, (subsection 3894(c)), require that successful submittal of electronic information shall replace the requirement for the submittal of a paper copy. This is intended to minimize the expense of preparation and duplication of reports, in paper copy submitted to regulatory agencies. In addition, this is intended to provide regulatory agencies and the public with easy access to reports.

The SWRCB initiated a non-substantive change following the close of the final 15-day comment period. Subdivision (a) of section 3890 was amended to include the applicable regulations that apply to a discharge of waste to land.

The SWRCB initiated a non-substantive change following the close of the final 15-day comment period. Subdivision (d) of section 3890 was amended to clarify the date when paper submittals of reports are replaced with “paperless” submittals.

Section 3891. Definition of Terms

This section defines the terminology used in Chapter 30.

The SWRCB initiated a non-substantive change following the close of the final 15-day comment period. The term “monitoring well” in Section 3891 was amended to “permanent monitoring well” and the definition was amended to clarify what type of monitoring well is subject to these requirements.

Section 3892. Reports

This section details the scope of reports subject to the requirements of this new chapter. Subsection 3892 (a) is in response to Water Code section 13196 which allows the SWRCB to require that certain data in reports from leaking UST sites be submitted electronically.

Subsections 3892 (b) through (h) are in response to Water Code section 13198(c), which allows the SWRCB to require electronic submission of reports for programs in addition to the UST program. These programs include the SLIC, DOD, and Land Disposal Programs. Data from reports submitted for subsurface investigations and cleanup of sites in these programs will also be submitted electronically. This provides a broad data coverage of threats to California’s groundwater and the health and safety of Californians.

The SWRCB initiated a non-substantive change following the close of the final 15-day comment period. Section 3890 was amended to include the applicable regulations that apply to a discharge of waste to land.

Section 3893. Electronic Submittal of Reports

Section 3893 is proposed in response to Water Code sections 13196 and 13198(c), which allow the SWRCB to adopt regulations requiring the electronic submission of reports. The requirement for electronically submitted information includes laboratory analytical results, groundwater well locations and elevations, depth to water in wells sampled, site map, depth to the screened interval and its length for any permanent monitoring well and boring logs. The specifications for these electronic data are contained in the State Water Resources Control Board EDF Guidelines and Restrictions (version 1.2i) and Survey XYZ Guidelines and Restrictions (Version 5). The purpose of these regulations is to bring accurate and timely data about contaminants into Geotracker. This will allow regulators to prioritize and manage threats to drinking water supplies more effectively and efficiently. In addition, stakeholders and the public can easily access important information about threats to drinking water in the State of California.

In addition regulatory agencies can require the submittal of a report, or portions thereof, in diskette, compact disc or other form if the agency determines that the alternative form is necessary, in addition to the electronic submittal of the report to Geotracker. The burden of the alternative form, including costs of these alternative forms, shall bear a reasonable relationship to the need for alternative form and benefits to be obtained from the alternative form.

The due date for submission of electronic information is the same as the due date for submission of the report established by the agency that is requiring the report.

The SWRCB initiated the following non-substantive changes following the close of the final 15-day comment period. Subdivision (b) of section 3893 was amended to clarify the types of water samples subject to the proposed regulations. Subdivision (b)(1) of section 3893 was amended to include the statement “if available”. Subdivision (c) of section 3893 was amended to clarify that the reports must be submitted in accordance with the deadlines of the regulating agency. Subdivision (d) of section 3893 was moved to subdivision (b) of section 3895 for clarity purposes.

Section 3894. Timing of Electronic Reporting Requirements

Subsection 3894(a) requires that electronic submittal of information for the UST program shall begin on the effective date of the regulations.

Subsection 3894(b) requires that all other electronic submittals required by these regulations shall be submitted beginning January 1, 2005.

Subdivision 3894(c) has been added to clarify that on-going requirements for the submittal of a paper copy of reports will continue until July 1, 2005 in addition to the requirements for electronic reporting contained in these regulations. After this date, submittal of a complete copy of a report in PDF format shall replace paper copy requirements.

The SWRCB initiated two non-substantive changes following the close of the final 15-day comment period. The title of section 3894 was amended to more accurately describe the requirements found in this section. Subdivision (c) of section 3894 was added to clarify that hard copy of reports will be replaced with “paperless” reports starting July 1, 2005.

Section 3895. Submittal of Alternate Forms of Reports

Subsection 3895(a) states that beginning July 1, 2005, the electronic submittal of the complete copy of any report in PDF format as part of a groundwater cleanup activity shall replace any requirements for submittal of paper copies of reports.

Subsection 3895(b) allows a regulatory agency to require a responsible party or their authorized agent to submit a report or portions thereof, in another form if the agency

determines that the alternative form of report is necessary. This may be necessary to accommodate large maps or other graphics, tabulations of data in another format, or other unique or unusual circumstances. The requirement for an alternative form of report by the regulatory agency should only be made in cases where the standard electronic reporting formats bear a reasonable relationship to the need for alternative form.

The SWRCB initiated two non-substantive changes following the close of the final 15-day comment period. Subdivision (a) of section 3895 was added for clarity purposes, and includes the language previously found in subdivision (c) of section 3894. Subdivision (b) of section 3895 was added for clarity purposes, and includes the language previously found in subdivision (d) of section 3893.

Title 27, Division 3, Subdivision 1. Unified Program Data Dictionaries.

The existing Unified Program data dictionaries are moved to Title 27, Division 3, Subdivision 1, Chapters 1 through 6. This provides a centrally located, unified structure for the electronic submittal of information for the Unified Program. The proposed regulations provide that all of the environmental data dictionaries should be located in the same site in the California Code of Regulations, providing easy access to the public and stakeholders.

Title 27, Division 3, Subdivision 2. SWRCB Electronic Submittal Requirements Data Dictionaries.

New data dictionaries are added to Title 27, Division 3, Subdivision 2, Chapters 1 and 2 for the electronic submittals of laboratory, well and site information. This provides a centrally located, unified cross-program structure for the electronic submittal of information for groundwater cleanup sites. The proposed regulations provide that all of the environmental data dictionaries should be located in the same site in the California Code of Regulations, providing easy access to the public and stakeholders.