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Governor

Matthew Rodriguez  
Secretary for Environmental Protection

March 4, 2016

## **Unified Program Guidance Letter 11-05 (*Revised*)**

### **UNIFIED HAZARDOUS MATERIALS PROGRAM GUIDANCE REGARDING THE REVIEW OF UNDERGROUND STORAGE TANK CONSTRUCTION FOR BIODIESEL AND ETHANOL FUELING SYSTEMS CONSTRUCTED BY PROPEL**

To: Unified Program Agencies

#### Statement of Purpose

To meet the intent of state law to provide an efficient permitting process which will assist a business and public agencies in complying with environmental quality laws in an expedited fashion, without reducing protection of public health and safety and the environment.

Propel (a business) has made a request of the California Environmental Protection Agency (CalEPA) Office of the Secretary, pursuant to the California Public Resources Code Section 71000 et seq., for assistance in obtaining consistent statewide review of its plans for compliance with state requirements for the installation of underground storage tanks (USTs) and underground piping systems.

UP-11-05, dated 09/19/2011, is hereby rescinded.

#### References

California Public Resources Code Section 71000 et seq.; California Code of Regulations, Title 27, Sections 10200 et seq.; California Health & Safety Code, Section 25404 et seq.; California Health & Safety Code, Section 44270 et seq; CalEPA Fuels Guidance Document

#### Background

The existing fuel infrastructure in California is constructed to be compatible with gasoline, a volatile mixture of hydrocarbons containing up to 10% ethanol and 5% biodiesel. This infrastructure is designed to store and dispense this chemical to prevent releases from entering the environment and creating a health and safety hazard. The design, construction methods, and materials used for gasoline have been tested and improved by governmental agencies over time and these fuel systems now operate safely protecting both public health and the environment. New fuels, such as biodiesel

and ethanol, are chemically different than gasoline and it is not known if the current infrastructure for gasoline is compatible with these new fuels. Newly introduced fuels must only be used in UST systems that have been tested and approved for use with the new fuel. This testing and approval process must be completed pursuant to state and federal law and a state or local agency may not approve a UST system for use with a new fuel until this approval process has been completed.

It is part of California state law to expand the use of new low carbon fuel vehicles thus creating a demand for low carbon fuels in California. In 2007 Assembly Bill 118 became law starting the process to increase low carbon fuel vehicles in the state. This bill created a new area of law and directs the California Energy Commission along with California Air Resources Board to develop and implement the "Alternative and Renewable Fuel Vehicle Technology Program." This new program will expand the use of low carbon fuel vehicles in California, which will require the expansion of low carbon fueling stations. These new fuels are chemically different from gasoline, and, as previously stated, it is not known if the existing infrastructure for managing gasoline is compatible with these new fuels.

In California, permitting and permit review for a new fueling system is completed primarily by local government agencies following state approved guidelines that are consistent with federal and state law. For a company to obtain permits to construct and to operate numerous fueling stations with a new fuel throughout the state, the company must go through a permit and plan review process within each jurisdiction it wishes to operate. This series of plan reviews requires that each jurisdiction review the components to be used in the construction of the fueling station and that the company demonstrates to each jurisdiction's satisfaction the plans and components for the fueling system meet the requirements of federal and state law.

This system of obtaining permits from each local permitting agency provides numerous regulatory advantages. However, when a new fueling system design is introduced and permitted in the state, this system of local government independent review and approval creates the potential for inconsistent application of statewide requirements for companies which operate in multiple jurisdictions. Additionally the process of having each jurisdiction complete its own independent review of the equipment and components for compatibility with federal and state law is time consuming and leads to delays in the approval of the project. Delays in review and approval occur as each jurisdiction must become familiar with the new technology and review the project for compliance with statewide requirements.

### Propel

Propel is a business, which builds, owns and operates a network of low carbon fueling points. They are in the process of expanding the number of fueling systems and have received grants from the California Energy Commission and the U.S. Department of Energy to help them complete the expansion of these fueling systems in California. The construction of these fueling systems is intended to help keep up with the increasing

demand for low carbon fuels created by Assembly Bill 118 of 2007, also known as the “Alternative Fuels and Vehicle Technologies Funding Program.” Propel intends to store and dispense fuel with 20% biodiesel, commonly referred to as B-20, and 85% ethanol, commonly referred to as E-85.

B-20 and E-85 are relatively new fuel formulations that have not been widely used in California. California’s fuel infrastructure has not been widely tested for compatibility with these fuels and therefore fueling system components that are commonly used for gasoline may not be compatible. Propel is required to design a fuel storage and dispensing system that is compatible with B-20 and E-85. To do this, they have had to design a fueling system that uses components that have been tested and found to be compatible with B-20 and E-85.

Propel has made a request of the CalEPA Office of the Secretary for assistance in obtaining consistent statewide review of its plans for compliance with state requirements for the installation of an underground storage tank and underground piping system.

#### Action

In response to Propel’s request for assistance in obtaining a statewide review of its plans a team was formed, consisting of representatives of the State Water Resources Control Board’s (State Water Board) UST Program and local Unified Program Agency’s (UPA). This team required that Propel submit all documentation necessary to complete a review of the Propel B-20 and E-85 fueling system design, including equipment for the purpose of determining if this plan was in compliance with state law.

Upon completion of their review, the reviewing team made a determination that Propel’s standard installation plans and all of the equipment and components were in compliance with state law and may be approved by a local UPA for installation. To ensure that the plans submitted to UPAs by Propel for approval are the same as those approved by the Unified Program plan review team, UPAs may request a copy of the team approved plans by sending an email to [CUPA@calepa.ca.gov](mailto:CUPA@calepa.ca.gov) with “Request for Unified Program approved Propel plans” in the subject line.

UPAs are to refer to the Unified Program approved plans to determine if the plans submitted to them by Propel meet State requirements. If the plans submitted by Propel to a UPA are identical to the plans that have been approved by the Unified Program, then the UPA should consider the plans to be in compliance with State law, specifically, the requirements found in California Health and Safety Code Division 20, Chapter 6.7.

If a UPA believes the approved Unified Program plans are not in compliance with State law, the UST Program of the State Water Board should be contacted.

#### Conditions

While the approved Unified Program plans have been reviewed and approved by the review team, site specific plans may still be required to be submitted to each UPA. The

team review process does not supersede any local design provisions that may be required and does not relieve Propel of any local notification, permitting requirements or the responsibility to obtain an approval to construct from the UPA.

This review should not be interpreted as an endorsement of materials, components, testing methods and contractors.

Variations in the use of equipment approved in the plans posted on the secure site will require approval by the review team.

Members of the review team:

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Questions

Please direct all questions regarding this policy to the UST Leak Prevention Unit with the State Water Board, at (916) 341-5870.

Original signed by Jim Bohon

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Jim Bohon

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