

Unified Program Newsletter – January 2025

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State Water Board

Revised Notice of Proposed Underground Storage Tank Regulations and Opportunity to Provide Comment

On November 22, 2024, the State Water Resources Control Board (State Water Board) notified underground storage tank (UST) stakeholders of proposed amendments to the California Code of Regulations, title 23, division 3, chapter 16 (UST Regulations) through the UST GovDelivery subscription list (<https://public.govdelivery.com/accounts/CAWRCB/subscriber/new?qsp=ust>). The proposed amendments are a complete rewrite of UST Regulations.

On December 26, 2024, the State Water Board extended the comment period (https://www.waterboards.ca.gov/board_info/calendar/docs/2025/jan/revisednotice_ch16regs_122624.pdf) an additional 10 days. The public comment period now ends on January 17, 2025, at 12:00 p.m. Individuals may submit written comments relevant to the proposed regulatory action to the State Water Board’s Clerk to the Board by email at commentletters@waterboards.ca.gov, by fax at (916) 3415620, or by mail or hand delivery to:

Courtney Tyler, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)
1001 I St, 24th Floor, Sacramento, CA 95814 (by hand delivery)

The proposed rulemaking documents and an unofficial crosswalk reference can be found on the Proposed Underground Storage Tank Regulations (https://www.waterboards.ca.gov/ust/leak_prevention/chapter16/rewrite.html) webpage.

For more information regarding the proposed UST Regulations, contact:
Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

Public Hearing on Proposed UST Regulations

The State Water Board will hold a public hearing on the proposed UST Regulations rulemaking. The public hearing will occur at the following time and location:

Monday January 13, 2025, 1:00 to 4:00 p.m.
California Environmental Protection Agency (CalEPA) Headquarters Building
Sierra Hearing Room
1001 I Street 2nd Floor
Sacramento, California 95814

The CalEPA Headquarters Building is accessible to people with disabilities.

The public hearing can also be accessed remotely by up to 300 viewers through **Zoom** at:

<https://waterboards.zoom.us/j/98471200195>

Meeting ID: 984 7120 0195

Live video and audio broadcasts of the public hearing, for attendees that are solely interested in watching and not providing comments, will be available via the internet and can be accessed at the CalEPA Public Meeting Live Webcasts page (<https://video.calepa.ca.gov/#/>). Closed captioning is available.

Oral comments will only be accepted at the public hearing. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed UST Regulations rulemaking. The State Water Board requests that people making oral comments at the hearing also submit a written copy of their testimony at the hearing. Please note, oral comments provided after the hearing will not be accepted by the State Water Board.

For more information regarding the proposed UST Regulations public hearing please see the Revised Notice of Proposed Regulatory Action (https://www.waterboards.ca.gov/board_info/calendar/docs/2025/jan/revisednotice_ch16regs_122624.pdf), or contact:

Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

Single-Walled UST Facility Permit to Operate

All single-walled USTs must be permanently closed (https://www.waterboards.ca.gov/ust/single_walled.html) by December 31, 2025. Unified Program Agencies (UPAs) must ensure that all permits to operate for single-walled UST facilities within their jurisdiction expire no later than December 31, 2025, as operation of single-walled USTs after this date is prohibited. Additionally, UPAs should consider sending a permit application for permanent closure with the UST Permit to Operate to all single-walled UST facilities that have not applied for permanent closure.

For more information regarding single-walled USTs, contact:
Jenna Hartman at (916) 327-8563 or Jenna.Hartman@waterboards.ca.gov.

Facility Compliance Inspection Reporting

UST Regulations, section 2713(d) requires the UPA to report to the State Water Board, no later than January 31st each year, the number of UST facilities where a compliance inspection was not performed over the previous calendar year. The State Water Board is required to report annually to the United States Environmental Protection Agency (U.S. EPA) on several performance measures as part of the Energy Policy Act of 2005 (EPAAct). One of the EPAAct performance measures requires states to certify that a UST facility compliance inspection has been conducted at every UST facility at least once during the past three years, thereby meeting the federal inspection frequency. At the direction of U.S. EPA, the California Environmental Reporting System (CERS) will be used to verify each UPA has complied with the federal UST inspection frequency.

To assist UPAs in verifying the accuracy of UST facility compliance inspections, UPAs should use the UST Routine Inspection Frequency (<https://cersregulator2.calepa.ca.gov/Account/SignIn?ReturnUrl=%2fReports%2fUSTRoutineInspectionFrequencySearch>) search tool in CERS. The State Water Board sent a letter to UPA managers on October 25, 2023 (<https://www.waterboards.ca.gov/ust/docs/ust-compliance-inspection-2024.pdf>) which included instructions on how to use the UST Routine Inspection Frequency search tool. UPAs should use this tool early to identify facilities where a compliance inspection has not been performed during the 2024 calendar year, or to ensure the correct data has been properly uploaded to CERS. This report will assist UPAs in identifying missing inspections or inaccurate data.

For more information regarding compliance inspection reporting requirements, contact: Magnolia Busse at (916) 341-5870 or Magnolia.Busse@waterboards.ca.gov.

Report 6 Due March 1, 2025

The State Water Board recently distributed the Report 6 forms and instructions to all UPAs for the reporting period of July 1 through December 31, 2024. UPAs must submit Report 6 no later than March 1, 2025.

Beginning this reporting period, paperless Report 6 forms now include a question regarding the number of red tags applied within the current cycle. Please note that red

tags that were previously issued should not be included in the count of applied red tag. Additionally, inaccurate Report 6 data provided to the State Water Board will be returned to the UPA for corrections. The UPAs must provide the corrected Report 6 prior to the March 1, 2025, due date or be considered late.

For more information regarding Report 6 requirements, contact:
Magnolia Busse at (916) 341-5870 or Magnolia.Busse@waterboards.ca.gov.

Office of Tank Tester Licensing Webpage Update

The Office of Tank Tester Licensing (OTTL) has updated local guidance (LG) 105 (https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/105_1_2.html) on the OTTL website (https://www.waterboards.ca.gov/ust/tank_testers/) to reflect the current list of State Water Board licensed tank testers. In addition to LG-105, the OTTL website offers links to OTTL Regulations, OTTL testing notification forms, and LG113. The OTTL website also provides licensing information for applicants and study materials for the exam.

For additional information regarding the OTTL website updates, contact:
Kaitlin Cottrell at (916) 319-0742 or Kaitlin.Cottrell@waterboards.ca.gov.

DTSC

Permit by Rule (PBR) and Conditional Authorization (CA) Tiered Permitted Facilities must adjust Closure Cost Estimates (CCEs) for Inflation by March 1, 2025

Financial assurance is required for tiered permitted facilities that are under the PBR and CA tiers. PBR and CA facilities are required to adjust CCEs for inflation by March 1st of every year in accordance with California Code of Regulations, Title 22, Section 67450.13. CCEs are required as part of the closure plans under PBR and CA. Adjusted closure costs are estimated by multiplying the CCE and the estimated inflation factor.

The inflation factor in a closure plan's CCE and a facility's financial assurance mechanism are calculated using the values provided by the U.S. Department of Commerce, Bureau of Economic Analysis (BEA) at <https://www.bea.gov/> as follows:

- From the home page navigate to Tools > Interactive Data, then under National Data menu on the left side of the page, select the Gross Domestic Product Personal Income link.
- Next, click on the [Interactive Data Tables] button, then SECTION 1 - DOMESTIC PRODUCT AND INCOME > Table 1.1.9. Implicit Price Deflators for Gross Domestic Product (A) (Q).
- Line 27 of Table 1.1.9 contains values for the Implicit Price Deflator for Gross National Product.

Because the inflation factor for the full 2024 year will not be available until the end of March 2025, DTSC recommends using a ratio of the third quarter index numbers for the past two years to estimate the 2025 inflation factor. As provided by the U.S. Department of Commerce, BEA in Line 27 of “Table 1.1.9. Implicit Price Deflators for Gross Domestic Product (A)(Q)”:

- the latest published annual Deflator is 125.441 (**Q3, 2024**),
- divided by the Deflator of the previous year is 122.679 (**Q3, 2023**),
- which gives $(125.441 \div 122.679) = 1.023$.

The CCE is adjusted by multiplying by the inflation factor (i.e. CCE * 1.023 = adjusted CCE).

Cal FIRE OSFM

Aboveground Petroleum Storage Act (APSA) Program Regulations

The Office of Administrative Law (OAL) approved the APSA Program regulations (California Code of Regulations, Title 19, Division 1, Chapter 11), which became effective December 17, 2024.

The final text of the regulations (express terms) are posted on the OAL website (https://oal.ca.gov/Other_Effective_Dates/) and the Office of the State Fire Marshal (OSFM) website (<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act>). On the OSFM website, refer to the Laws and Regulations section.

The APSA Program regulations are also available in Westlaw (<https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29>).

APSA Electronic Reporting Requirements

Question: What are the electronic reporting requirements for an owner or operator of an APSA tank facility?

Answer: The tank facility statement is required to be submitted to the California Environmental Reporting System (CERS) per Health and Safety Code, Section 25270.6(a). However, submittal of a **complete** Hazardous Materials Business Plan (HMBP) meets the tank facility statement reporting requirement.

Additionally, per the new APSA Program regulations, the California Code of Regulations (CCR), Title 19, Section 1614 requires the following information to be electronically reported to CERS:

- a. Conditionally exempt from Spill Prevention, Control, and Countermeasure (SPCC) Plan status;
- b. Date of SPCC Plan certification or last 5-year review, whichever is more recent;

- c. Total aggregate petroleum storage capacity of a tank facility in gallons; and
- d. Number of tanks in underground areas.

The APSA Facility Information submittal element in CERS contains the above four data fields.

Question: When are the tank facility statement and APSA Facility Information submittal element required to be submitted to CERS?

Answer: The tank facility statement is required to be submitted to CERS on or before January 1st, **annually**.

The APSA Facility Information submittal element is required to be completed and submitted to CERS within 12 months following December 17, 2024, and **annually** thereafter (CCR Title 19, Section 1614(a)). The annual submittal of the APSA Facility Information shall be in conjunction with the tank facility statement or HMBP submittal (CCR Title 19, Section 1614(c)).

More information on APSA CERS submittals may be found on the following OSFM websites:

- Aboveground Petroleum Storage Tank Facility Statement Reporting Requirements
<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/aboveground-petroleum-storage-tank-facility-statement-reporting-requirements>
- Is My Facility Regulated Under APSA?
<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/is-my-facility-regulated-under-the-aboveground-petroleum-storage-act>
- Preparing an APSA Submittal in CERS
<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/preparing-an-aboveground-petroleum-storage-act>

APSA Advisory Committee

The APSA Advisory Committee is seeking representation for the following groups:

- Northern Region CUPA Forum (alternate)
- Oil industry (alternate)
- Southern or central region fire department or district (alternate)
- Tank manufacturer (alternate)
- Telecommunications industry (primary and alternate)

If interested in becoming a committee voting member to represent one of the above groups, please send your letter of interest to the address below and email an electronic copy to cupa@fire.ca.gov.

State Fire Marshal
CAL FIRE – Office of the State Fire Marshal
P.O. Box 944246
Sacramento, CA 94244-2460

More information on the APSA Advisory Committee is available on the website at: <https://osfm.fire.ca.gov/committees/aboveground-petroleum-storage-act-apsa-advisory-committee>.

Empty Tanks/Containers

Question: Are petroleum aboveground storage tanks (AST) that are empty or no longer in service still regulated under the APSA, and should the ASTs continue to be included in a facility's SPCC Plan?

Answer: Yes. Neither the APSA nor the Federal SPCC rule defines 'empty' or 'no longer in service.' Unless the petroleum ASTs or containers have been 'permanently closed' consistent with the Code of Federal Regulations (CFR), Title 40, Part 112 requirements, the tanks or containers remain APSA regulated and must be included in the facility SPCC Plan.

A 'permanently closed' container, as defined in 40 CFR Part 112, Section 112.2, means:

- “(1) All liquid and sludge has been removed from each container and connecting line; and
- (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except for ventilation valves) have been closed and locked, and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure.”

ASTs previously storing petroleum that have been 'permanently closed' per the Federal SPCC rule requirements are not required to be included in the facility's SPCC Plan and are not APSA regulated.

For more information on 'permanently closed' containers, refer to the SPCC Guidance for Regional Inspectors, Chapter 2, Section 2.8.1, which is available on the U.S. Environmental Protection Agency website (<https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-guidance-regional-inspectors>).

References or links to information cited in this newsletter are subject to change. CalEPA is interested in your comments and suggestions regarding the Unified

***Program monthly newsletter. Please email your comments and suggestions to:
cupa@calepa.ca.gov.***

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