

## Unified Program Newsletter – January 2019

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### CalEPA

#### **CERS Knowledge Base, Help, and FAQs**

#### **How do I find submittal information for past submittal elements in the California Environmental Reporting System (CERS) Business Portal?**

<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2019/01/December-2018-How-do-I-find-history-on-past-submittal-elements-in-CERS.pdf>

### DTSC

#### **Re-adoption of Emergency Regulations: Determining the Initial Penalty for Each Violation**

Effective January 1, 2018, AB 245 amended Health and Safety Code sections 25188, 25189, and 25189.2 to increase administrative and civil penalties to a maximum of \$70,000 per day per violation. Emergency regulations to adopt the increase in penalties became effective on July 5, 2018, and were scheduled to expire on January 3, 2019. These emergency regulations were re-adopted on January 3, 2019, and are now effective. The expiration date of the emergency regulations is April 3, 2019. The rulemaking file can be found on DTSC's website at

<https://dtsc.ca.gov/LawsRegsPolicies/Regs/determining-initial-penalty-each-violation.cfm>

## **Permit by Rule and Conditional Authorization Tier Permitting Facilities Must Adjust Closure Cost Estimates for Inflation by March 1, 2018**

Financial assurance is required for tier permitting facilities that are under the permit by rule (PBR) and conditional authorization (CA) tiers. Closure cost estimates are required as part of the closure plans under PBR and CA. Adjusted closure costs are estimated by multiplying the current cost estimate and the estimated inflation factor.

The inflation factor in a closure plan's closure cost estimate and a facility's financial assurance mechanism should be calculated using the values provided by the U.S. Department of Commerce, Bureau of Economic Analysis (BEA) at

<https://www.bea.gov/iTable/iTable.cfm?reqid=19&step=2#reqid=19&step=3&isuri=1&1921=survey&1903=13>.

PBR and CA facilities are required to adjust closure cost estimates for inflation by March 1st of every year (California Code of Regulations, Title 22, Section 67450.13). Because the inflation factor for the full 2018 year will not be available until the end of March, 2019, DTSC recommends using a ratio of the third quarter inflation factor for the past two years to estimate the 2019 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)" of "Section 1- Domestic Product and Income," the 3rd quarter inflation factor for 2018 is 110.605 and the 3rd quarter inflation factor for 2017 is 108.053. The estimated inflation factor for 2019 is 1.024, derived as follows:

Estimated inflation factor for 2019	=	3rd quarter inflation factor for 2018	÷	3rd quarter inflation factor for 2017
1.024		110.605		108.053

## **State Water Board**

### **New Health and Safety Code, Chapter 6.7 UST Requirements Effective January 1, 2019**

In September 2018, Governor Brown signed Assembly Bill No. 2902 (AB 2902). The underground storage tank (UST) relevant parts of AB 2902 amend Health and Safety Code, division 20, chapter 6.7 (H&SC 6.7), sections 25281.5, 25285, and 25292.3, effective January 1, 2019.

The new underground storage tank (UST) statutes allow Unified Program Agencies (UPAs) to issue or renew a UST operating permit to a facility not in full compliance, expands the definition of an "emergency generator tank system" to include systems that store kerosene in lieu of diesel, and extends red tag authority to State Water Resources Control Board (State Water Board) staff. A detailed explanation of the new law can be found at

[https://www.waterboards.ca.gov/ust/adm\\_notices/ust\\_provisions\\_in\\_ab2902.pdf](https://www.waterboards.ca.gov/ust/adm_notices/ust_provisions_in_ab2902.pdf)

A revised version of H&SC 6.7, including both the amended and deleted language, can be found at [https://www.waterboards.ca.gov/ust/regulatory/docs/hsc\\_6\\_7\\_01\\_2019.pdf](https://www.waterboards.ca.gov/ust/regulatory/docs/hsc_6_7_01_2019.pdf)

For more information regarding new UST statutes, please contact Mr. Tom Henderson at (916) 319-9128 or email [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov)

### **Revised Definition for Tank in Underground Area (TIUGA)**

In addition to the previously mentioned effects of AB 2902, effective January 1, 2019, the definition of a TIUGA now includes tank systems with connected single-walled emergency vent piping solely designed to relieve excessive internal pressure. Also, the definition is modified to allow the interstitial space of the tank system or, containment structure in which the tank is located, to be monitored for leaks in lieu of directly viewing the exterior of the tank. This modification effectively defines all fully double-wall petroleum storage tanks systems in below grade structures that are not connected to a buried tank as a TIUGA and are subject to above ground storage tank (AST) requirements.

For more information regarding TIUGA, please contact Mr. Cory Hootman at (916) 341-5668 or email [Cory.Hootman@waterboards.ca.gov](mailto:Cory.Hootman@waterboards.ca.gov) or Ms. Jennifer Lorenzo at (916) 263-1801 or email [Jennifer.Lorenzo@fire.ca.gov](mailto:Jennifer.Lorenzo@fire.ca.gov).

### **Transferring TIUGAs from the UST Program to the AST Program in CERS**

The upcoming release of CERS version 3.0 (CERS 3), currently scheduled for release March 2019, includes a simplified process for changing the status of a tank from the UST program to the AST program for those systems meeting the definition of a TIUGA. To assist UST owners, operators, and regulators prior to the release of CERS 3, a CERS Frequently Asked Questions (FAQ) titled *Reporting a TIUGA (former UST in CERS) as an AST subject to APSA* has been developed and posted on the CERS Central webpage regarding transferring tank systems in CERS. The FAQ dated 12/17/2018 outlines the submittal process to report this change including updating the Business Activities questions, the Hazardous Materials Inventory, the site map, and the UST section to remove this tank from the UST portion of CERS submittals. The FAQ can be found at <https://cers.calepa.ca.gov/about-cers/help-materials/>.

For more information regarding TIUGA, please contact Mr. Cory Hootman at (916) 341-5668 or email [Cory.Hootman@waterboards.ca.gov](mailto:Cory.Hootman@waterboards.ca.gov) or Ms. Jennifer Lorenzo at (916) 263-1801 or email [Jennifer.Lorenzo@fire.ca.gov](mailto:Jennifer.Lorenzo@fire.ca.gov).

### **CERS UST Data Accuracy – A Continuous Improvement Effort**

Why do we collect, store, and use data?

1. To inform data-driven management and planning activities – performance report cards, evaluation of program effectiveness, workplans, resource assignment, along with many other examples;
2. To inform critical decision making regarding the State Water Board mission and water management responsibilities – including water quality planning and policy, water allocation and use, permitting, program prioritization, etc.; and
3. To provide transparency to the many partners and stakeholders for their use, interests and purposes.

What are the Guiding Principles for State Water Board Data Management?

Data Accessibility – State Water Board values transparency and strives to make all critical data in CERS available to UPAs through Excel reports downloadable from CERS. State Water Board explains the different data by providing information about each piece of data (metadata) as part of the data dictionary.

Understanding Data Quality and Integrity – State Water Board data are thoughtfully planned, of a known and useful quality, with specific practices to protect data integrity using standards and protocols.

Data Used to Govern – State Water Board uses data to govern or make decisions that are in the best interest of the mission of preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses.

Data Governance – our organization takes proactive steps to develop effective data and information technology management practices to ensure data flows to where it is needed in a timely manner while complying with data sharing policies.

The use of CERS has increased and improved since inception which provides an opportunity to look closely at areas of improvement available to us. As a result, State Water Board has identified some issues with data quality which need to be addressed.

For more information about these issues, please contact Ms. Lisa Jensen at (916) 319-0742 or email [Lisa.Jensen@waterboards.ca.gov](mailto:Lisa.Jensen@waterboards.ca.gov).

## **Cal FIRE OSFM**

### **Assembly Bill (AB) 2902 Effective January 1, 2019**

[AB 2902](#), which was approved by the Governor and chaptered into law on September 23, 2018, became effective on January 1, 2019. AB 2902 makes various amendments to APSA as follows:

- a. Clarifies the definition of an 'aboveground storage tank' or 'storage tank' to include a tank or a **container** that has the capacity to store 55 gallons or more of petroleum that is substantially or totally above the surface of the ground.
- b. Excludes from the definition of an 'aboveground storage tank' or 'storage tank' a tank containing hazardous waste or extremely hazardous waste if the owner or operator of the tank has a hazardous waste facilities permit from the Department of Toxic Substances Control or **a permit by rule authorization from a Unified Program Agency** for the storage tank.
- c. Excludes from the definition of an 'aboveground storage tank' or 'storage tank' a tank in an underground area that has the capacity to store less than 55 gallons of petroleum, has secondary containment, and is inspected monthly, if the owner or operator maintains a log of inspection records for review by the Unified Program Agency upon request.
- d. Clarifies the definition of a 'tank in an underground area' to be a **stationary** storage tank.
- e. Clarifies that, **except for an emergency vent that is solely designed to relieve excessive internal pressure**, all piping connected to the tank in an underground area, including any portion of a vent line, vapor recovery line, or fill pipe that is beneath the surface of the ground, and all ancillary equipment, **that is designed and constructed to contain petroleum**, can be visually inspected by direct viewing or has both

secondary containment and leak detection that meet the requirements adopted by the Office of the State Fire Marshal (OSFM).

- f. Clarifies that direct viewing of the exterior of a tank in an underground area is not required if inspections of the interstitial space or containment structure are performed or if the storage tank has a mechanical or electronic device that will detect leaks in the interstitial space or containment structure, and alert the tank operator.
- g. Clarifies that if a tank facility has a storage capacity of less than 1,320 gallons of petroleum, the following tanks in an underground area are not subject to APSA:
  - i. The tank holds hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, or other similar devices.
  - ii. The tank is a heating oil tank.
  - iii. The tank is a sump, separator, clarifier, catch basin, or storm drain.
- h. Clarifies that the owner or operator of a tank facility with a storage capacity of less than 1,320 gallons of petroleum and has one or more tanks in an underground area may use the format adopted by the OSFM to prepare a spill prevention, control, and countermeasure plan.

To view the full text of the bill, visit the California Legislative Information website at [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB2902](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2902).

***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](mailto:cupa@calepa.ca.gov).***

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