



UST Program Update December 2017

Proposed Changes to Underground Storage Tank Regulations

The State Water Resources Control Board (State Water Board) proposes to amend California Code of Regulations, title 23, division 3, chapter 16 (commencing with section 2610) (California UST Regulations) to make the California UST Regulations at least as stringent as part 280 of 40 Code of Federal Regulations (Federal UST Regulations). These proposed amendments are administrative and technical in nature and impose new design and construction, monitoring, notification, testing, inspecting, recordkeeping, training, and reporting requirements. The proposed amendments also include more stringent requirements necessary to implement chapter 6.7 of division 20 of the Health and Safety Code and modifies certain existing California UST Regulations to be consistent with the Federal UST Regulations.

The 45-day public comment period for the proposed regulatory action begins on Friday, November 17, 2017 and closes on January 2, 2018 at 12:00 p.m. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board.

The proposed rulemaking package is available at:

https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/fed_rec_regs.

If you have questions regarding this matter, please contact Cory Hootman at (916) 341-5668 or cory.hootman@waterboards.ca.gov.

Underground Storage Tank Compliance Inspection Data Review

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, subtitle B of this act (titled the Underground Storage Tank Compliance Act) contains amendments to subtitle I of the Solid Waste Disposal Act.

The underground storage tank (UST) provisions of the Energy Policy Act of 2005 focus on preventing releases. Among other things, the Act expands eligible uses of the Leaking Underground Storage Tank Trust Fund, and includes provisions regarding inspections, operator training, delivery prohibition, secondary containment and cleanup of releases that contain oxygenated fuel additives.

State Water Board is required by the Energy Policy Act of 2005 to certify compliance with the provisions of the Act annually. The United States Environmental Protection Agency (US EPA) has requested the State Water Board utilize the California Environmental Reporting System to verify the inspection frequency element.

Preparation for the upcoming 2017 calendar year certification, which is transmitted to US EPA in February of 2018, is underway. Unified Program Agencies (UPAs) have been notified of facility and inspection data that could prohibit the State Water Board from making such certification. State Water Board has requested that incorrect and incomplete inspection data be updated by the end of 2017.

State Water Board will be running the final reports mid-January 2018 to verify that all UST facilities have been inspected pursuant to the federal three year inspection frequency. UPAs should run this report proactively at the end of December 2017 or early January 2018 to verify that the data shows all facilities that have identified an UST as having an inspection in the last three years. Directions on how to run the report are posted at https://www.waterboards.ca.gov/ust/adm_notices/cers_ust_inspection_reports.pdf.

Travel Centers of America to Pay \$500,000 for Violating Consent Judgment

Travel Centers of America and its affiliates (TA) agreed to pay a \$500,000 penalty for violating the terms of a February 20, 2014 Merced County Superior Court Consent Judgment related to violations of the UST regulations.

The 2014 judgment resolved violations alleged by the State Water Board against TA that began in 2005. The alleged violations included failure to perform required testing and monitoring, and failure to install leak prevention equipment at six UST facilities located in Kern and Merced counties operating as retail service stations and truck stops.

Under the terms of the 2014 judgment, TA paid \$1 million in civil penalties and an additional \$800,000 in reimbursement for the State Water Board's enforcement costs. TA received \$2 million in credit for environmental improvements that enhanced compliance at its facilities, and an additional \$1 million in penalties was suspended conditioned on TA maintaining compliance with the requirements of the judgment for five years.

Between March 2015 and May 2017, the State Water Board reviewed annual status reports submitted by TA under the 2014 judgment. During its review, the Board identified seven violations, which triggered imposition of the suspended penalty. These alleged violations included failure to timely repair secondary containment after testing failures, failure to have an approved overfill prevention system, failure to timely perform an enhanced leak detection test and failure to have a line leak detector on a pressurized product line.

The State Water Board reached a settlement agreement with TA regarding the alleged violations. TA will pay \$500,000 in suspended penalties to the Cleanup and Abatement Account, with the remaining \$500,000 suspended, conditioned on TA not violating any UST laws or the terms of the settlement for the rest of the original five-year period.

For more information on this and other enforcement actions, visit the Office of Enforcement's website at https://www.waterboards.ca.gov/water_issues/programs/enforcement/orders_actions.shtml

Contractors Performing Internal Inspections on Underground Storage Tanks

The State Water Board has directed contractors performing underground storage tank internal inspections, repairs or linings to submit a *UST internal inspection Form* to the State Water Board within 14 days of completion of the inspection. Letters were sent to all known UST inspection contractors by certified mail in November 2017. The contractor submittal does not relieve the UST owner or operator of demonstrating structural integrity to the UPA prior to repairing, upgrading, or certifying the UST for continued use.

The State Water Board additionally requested UPAs notify the State Water Board prior to expected UST entries. The UPA notification information will be matched with the tank inspection data provided by the UST contractor. The information collected will assist the State Water Board in proper updates to the regulations. The UPA notification form can be found here:

https://www.waterboards.ca.gov/ust/adm_notices/cupa_ust_entry_notification.pdf

The contractor Underground Storage Tank Internal Inspection Form can be obtained here:

https://www.waterboards.ca.gov/ust/docs/underground_internal_inspection.pdf

For questions regarding UST lining, repair or entry, please contact Mr. Tom Henderson at (916) 319-9128 or tom.henderson@waterboards.ca.gov.