



# UST Program Update January 2021

## Webinars on Updated Underground Storage Tank Reporting Requirements for the Energy Policy Act of 2005

On November 23, 2020, the State Water Resources Control Board (State Water Board) issued [correspondence<sup>1</sup>](#) on the updated annual UST compliance inspection frequency reporting requirements for the Energy Policy Act of 2005 (EPAAct) to be completed by Unified Program Agencies (UPAs). On an annual basis the State Water Board is required to certify compliance with the Underground Storage Tank (UST) provisions of the EPAAct. One of these provisions requires states to confirm that the federal UST compliance inspection frequency of once every three years, as outlined in 42 U.S.C. §6991d, subdivision (c)(2), has been met. To meet this requirement, California Code of Regulations, title 23, division 3, chapter 16 (UST Regulations), sections 2713(d)(1) and (2) were added, which require the UPAs to submit a report to the State Water Board by January 31 of each year which notes the number of facilities that did not receive an **on-site annual UST compliance inspection** over the last year. Effective October 1, 2020, amendments to the UST Regulations modify how UPAs report annual UST compliance inspection frequency data to the State Water Board.

In accordance with the UST Regulations, UPAs must generate UST compliance inspection frequency data using the California Environmental Reporting System (CERS), and report the following items from CERS in the submittal to the State Water Board: CERS ID, UST facility name, UST reporting requirement, date of last annual UST compliance inspection, and a written explanation of why an on-site annual UST compliance inspection was not performed. **UPAs only need to report facilities where an on-site annual UST compliance inspection was not performed during the calendar year 2020.** No submittal is required from UPAs with facilities where an on-site annual UST compliance inspection was performed during 2020. Pursuant to UST

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<sup>1</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/docs/inspection\\_frequency\\_confirmation\\_energy\\_policy\\_act\\_certification.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/docs/inspection_frequency_confirmation_energy_policy_act_certification.pdf)

Regulations, reporting must include all regulated USTs, including temporarily closed and abandoned USTs.

To assist UPAs in the updated reporting requirement, State Water Board staff will be hosting two Zoom webinars on the following dates and times:

- January 13, 2021, from 10:00 AM – 11:00 AM
- January 20, 2021, from 10:00 AM – 11:00 AM

For additional Zoom webinar information and instructions on how to generate the CERS report, please visit our website: [Technical UST Program Notifications | California State Water Resources Control Board](#).<sup>2</sup>

For more information regarding annual EPCRA reporting requirements or the upcoming Zoom webinars, please contact:

Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov), or Ms. Jessica Botsford at (916) 341-7338 or [Jessica.Botsford@waterboards.ca.gov](mailto:Jessica.Botsford@waterboards.ca.gov).

## Report 6 Dates and Deadlines

State Water Board will soon distribute the Report 6 forms and instructions for the reporting period of July 1, 2020 through December 31, 2020. Report 6 forms are due back to the State Water Board no later than March 1, 2021. Consistent with the last reporting period, UPAs must continue to report field constructed tanks, facilities with USTs that have received a red tag, and facilities that have abandoned or temporarily closed USTs.

For additional information regarding Report 6 requirements, contact

Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov), or Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov).

## Temporary Closure of UST Systems

The State Water Board is aware of USTs that have been improperly issued temporary closure permits by several UPAs. The State Water Board finds that UPAs have issued temporary closure permits to owners or operators as a means of mitigating the pursuit of permanent closure, when there is no intent or ability to bring the UST back into operation, and when the UST is allowed to be kept in temporary closure beyond the 12 months without having conducted mandatory soil sampling needed to extend UST temporary closure to 24 months. These practices fail to conform with the UST regulations and, ultimately, result in an increased number of abandoned USTs.

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<sup>2</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/insp\\_epac.html](https://www.waterboards.ca.gov/water_issues/programs/ust/insp_epac.html)

Pursuant to UST Regulations, section 2670, USTs may only be placed into temporary closure when the UST will be operational within the 12 consecutive months after which it enters temporary closure. UPAs may extend the 12-month temporary closure period by a maximum of an additional 12-months only *after* a site assessment is completed (UST Regulations, section 2672(d)). In addition to enforcing these temporary closure requirements, UPAs must ensure that the annual UST compliance inspection and State Water Board reporting requirements are maintained.

When a temporary closure permit is issued by the UPA, owners or operators must correctly report the temporarily closed UST in CERS by creating a CERS submittal for that UST system with the Type of Action listed as “Temporary UST Closure.” Further, UPAs must perform annual UST compliance inspections for all regulated UST facilities, which includes temporarily closed USTs. Finally, UPAs must accurately identify and report temporarily closed USTs in the Report 6.

For additional information regarding temporary closure of UST systems, contact Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov), or Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov).

## Office of Enforcement

The Office of Enforcement's (OE) UST Enforcement Unit is shifting priorities during the 2020-2021 fiscal year to apply its resources to the programs described in the following sections. The objective is to work collaboratively with the UPAs to eliminate the enforcement backlog of UST facilities in the following categories.

### **Government Owned Tanks**

Over the course of this fiscal year, the Government Owned Tank (GOT) Program will be ramped down. Fewer GOT facilities will be inspected each fiscal year, therefore OE will no longer submit periodic large-scale file retrieval requests to the UPAs. Instead, for the scaled down program, GOT facilities will primarily be selected for inspection by the UPAs and referred to OE. To transfer compliance and enforcement responsibility for a GOT facility in your jurisdiction to the OE, please complete the [State Water Board OE Facility Referral Form](#)<sup>3</sup> and click on the “Submit Completed Form” button in the upper right corner.

For additional information on the submittal process and when you will be contacted to follow up with the referral request, contact Mr. Brian Taylor at [Brian.Taylor@waterboards.ca.gov](mailto:Brian.Taylor@waterboards.ca.gov).

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<sup>3</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/tanks/swrc\\_b\\_oe\\_facility\\_referral.pdf](https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/tanks/swrc_b_oe_facility_referral.pdf)

### ***Removal of Improperly Abandoned Tanks***

The Removal of Improperly Abandoned Tanks program is a revival of an initiative that was implemented from 2013 through November 2016. An assessment of 119 remaining improperly abandoned USTs is being conducted and verified with information in the CERS, Geotracker, and the information UPAs provide in Report 6. OE staff may contact UPAs to complete UST system details, verify newly reported UST facilities and obtain files to research UST facility background information. The updated inventory will be further screened to prioritize UST facilities relative to drinking water wells and disadvantaged communities (DAC). OE will implement compliance and enforcement actions where applicable, and/or direct site owners to the appropriate funding mechanism.

### ***Focused Enforcement of Recalcitrant and Significant Violators***

There are recalcitrant operators who own multiple UST facilities with long standing violations. CERS data indicate that there are violations in these UST facilities that remain unresolved for years and burden UPA resources. OE staff will review existing CERS data and request UST facility-specific file information from UPAs to create a recalcitrant and significant violators database. UST facilities selected for enforcement will be discussed with UPAs to ensure consistent, coordinated application of compliance efforts. UST facilities in DAC where water quality violations impact or threaten drinking water sources within minority, low income, and Native American communities will be prioritized for enforcement. The overall goal is to emphasize an environmental justice component with recalcitrant violators. UPAs may also refer compliance and enforcement responsibility for a GOT facility in your jurisdiction to the OE by completing the State Water Board OE Facility Referral Form and clicking on the “Submit Completed Form” button in the upper right corner.

For additional information on the submittal process and when you will be contacted to follow up with the referral request, contact  
Mr. Brian Taylor at [Brian.Taylor@waterboards.ca.gov](mailto:Brian.Taylor@waterboards.ca.gov).