



# UST Program Update July 2020

## Financial Responsibility Requirement and the UST Cleanup Fund

The State Water Resources Control Board (State Water Board) Underground Storage Tank (UST) Cleanup Fund, currently used as all or part of the financial responsibility mechanism by about 60 percent of UST facilities, will sunset on January 1, 2026. With the exception of state and federally owned UST facilities, all petroleum UST facilities require financial responsibility. Although the UST Cleanup Fund will not sunset until January 1, 2026, UST owners and operators will not be permitted to use the UST Cleanup Fund as a financial responsibility mechanism after December 31, 2024. All UST owners and operators must provide evidence of a new financial responsibility mechanism on or before December 31, 2024.

While single-walled UST facilities are not required to permanently close until December 31, 2025, it is unlikely these facilities will be able to obtain another mechanism for financial responsibility after December 31, 2024 as required. This will have two immediate effects:

- Single-walled facilities that cannot obtain a new financial responsibility mechanism, as required by both federal rule and state law, will be required to immediately shut down and permanently close the USTs; and
- Single-walled facilities that no longer have a financial responsibility mechanism will not be eligible to file a claim with the UST Cleanup Fund.

Additional deadlines and restrictions apply to new UST Cleanup Fund claims and UST Cleanup Fund reimbursements in 2025. UST owners and operators who delay removing single-walled USTs may have to pay the entire cost of any site investigation and remediation. Site investigation and cleanup can take years and cost hundreds of thousands of dollars.

While there are many financial responsibility mechanisms available to UST owners and operators, including private insurance, surety bonds, and letters of credit, some of these mechanisms may not be accessible or feasible to small businesses. UST owners and

operators should be familiar with the financial responsibility requirements and options as defined in [40 Code of Federal Regulations, section 280, subpart H.](#)<sup>1</sup>

For additional information regarding financial responsibility 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).

## **Tank Tester Licensing Regulations**

The Office of Tank Tester Licensing (OTTL) updated the desk reference version of the California Code of Regulation, title 23, division 3, chapter 17 (OTTL Regulations) to an accessible format in order to comply with accessibility requirements. The accessible OTTL Regulations are available on the State Water Board UST Program [Statutes & Regulations web page.](#)<sup>2</sup>

For additional information regarding OTTL Regulations, contact Mr. Sean Farrow at (916) 324-7493 or [Sean.Farrow@waterboards.ca.gov](mailto:Sean.Farrow@waterboards.ca.gov), or Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov).

## **Regulatory Deadline for Overfill Prevention Equipment Inspection**

On June 24, 2020, correspondence was issued regarding the regulatory deadline (deadline) for overfill prevention equipment inspection (overfill inspection) and the possibility of service technician and equipment availability issues in anticipation of numerous UST owners or operators required to complete overfill inspections in October 2021.

California Code of Regulations, title 23, division 3, chapter 16 (UST Regulations), section 2637.2(a) requires overfill inspections to be completed no later than October 13, 2018, at installation, upon repair, and every 36 months thereafter. In accordance with UST Regulations, section 2620(e), all periodic overfill inspections must be completed no later than the last day of the month during which the overfill inspection is required. Therefore, those overfill inspections completed before the October 2018 deadline must be completed no later than 36 months after the initial overfill inspection (e.g., An overfill inspection performed August 2018 must complete the periodic overfill inspection no later than August 31, 2021.)

UST owners or operators that failed to meet the October 2018 deadline for the initial overfill inspection must complete the periodic overfill inspection on or before the last day

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<sup>1</sup> <https://www.ecfr.gov/cgi-bin/text-idx>

<sup>2</sup> <https://www.waterboards.ca.gov/ust/regulatory/docs/chapter17.pdf>

of the month required. Since the initial overfill inspection was required by October 13, 2018, the periodic overfill inspection deadline for all late overfill inspections is October 31, 2021.

To avoid the risk of violations and to reduce the possibility of service technician and equipment constraints now and in the future, the State Water Board staff encourages UST owners or operators to complete the overfill inspection early. UST owners or operators may also obtain cost savings by completing the overfill inspection with the secondary containment testing or the annual monitoring system certification. In accordance with UST Regulations, section 2620(e), completing the overfill inspection early moves the deadline forward, so that the next overfill inspection will be due at the end of the 36<sup>th</sup> month following the overfill inspection, rather than October 2024, when service technician and overfill equipment availability again is expected to be limited.

For more information regarding the deadline for overfill inspections, contact Ms. Jessica Botsford at (916) 341-7338 or [Jessica.Botsford@waterboards.ca.gov](mailto:Jessica.Botsford@waterboards.ca.gov), or Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov).

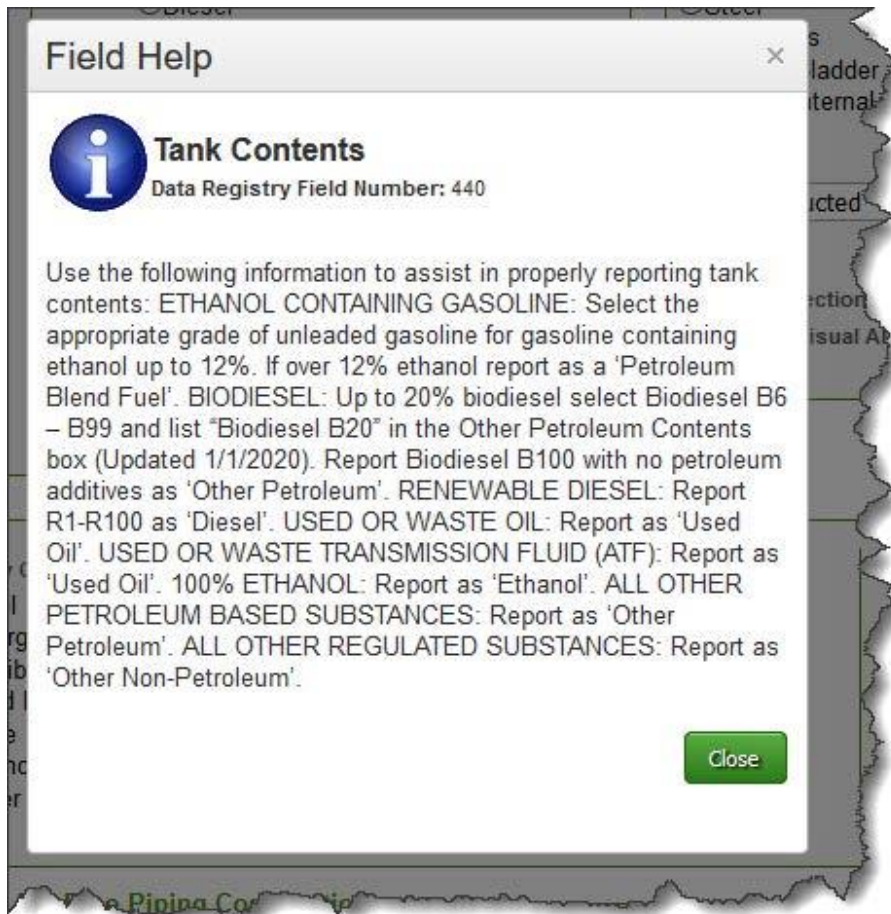
## **California Environmental Reporting System Enhancement: Help Bubble for Biodiesel up to 20 Percent**

State Water Board updated the California Environmental Reporting System (CERS) to include a help bubble in Field 440 - "Tank Contents." This help bubble includes instructions for USTs containing up to 20 percent biodiesel fuel (B20), and will assist UST owners or operators with selecting proper tank content information. UST owners or operators must properly identify in submittals, USTs containing up to B20 by:

- Selecting "Biodiesel B6 – B99"; and
- Listing "Biodiesel B20" in the Other Petroleum Content box.

To ensure correct reporting of UST contents, Unified Program Agencies (UPAs) must only accept submittals for USTs containing up to B20 that conform to this protocol. Inspection and permitting activities are the best time to ensure USTs storing B20 are properly reported in CERS.

A screenshot of the CERS help bubble may be viewed below:



For additional information regarding proper reporting of B20, 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).

## Product Pipe Manifolder in the Under-Dispenser Containment

State Water Board staff have seen an increase in the number of UST systems that have manifolded two or more USTs in the under-dispenser container (UDC) rather than at the USTs. The UST Regulations do not prohibit manifolding UST systems within the UDC, however, there are several considerations that must be taken into account when UST systems are manifolded:

*Line leak detector* – If installed incorrectly then line leak detectors (LLD) on manifolded lines will not work properly. Please consult the LLD manufacturer for proper installation and testing guidance of LLDs for manifolded systems. The location of the LLD could differ between electronic and mechanical LLDs.

*Piping Construction* – In-line components such as check valves and pressure relief valves can affect how the system functions and possibly whether the LLD will function properly.

*System Programming* – Owners and operators should confirm how the turbine operation is set as this could affect the proper operation of the LLD and shear valves. Whether the system is set for the turbines to alternate or both run at the same time must be considered.

*Shear Valves* – Systems are being manifolded both above and below the shear valves. While this would not be specifically addressed as part of the UST Regulations, this likely would be part of fire code and possibly local ordinances. Before manifolding pipe in the UDC, contact the local fire department.

*Positive Shut Off* – If the system is using the fail safe and positive shut off option rather than performing an annual line tightness test, any sensor used to generate the positive shut off must shut down all manifolded UST turbines.

UST owners, operators and their contractors should contact the UPA and the local fire department for direction prior to beginning work on manifolding pipe.

For additional information regarding pipe manifolded in the UDC, 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).

## **Testing Notifications for Tank and Line Integrity Testing, Enhanced Leak Detection Testing, and Associated Test Results**

To improve tracking and monitoring of tank tester activities, the OTTL provided correspondence to licensed California tank and line integrity testers on June 12, 2020. The correspondence elaborates on the regulatory requirement to submit test notifications for the purpose of testing the integrity of tanks and lines, and for enhanced leak detection (ELD) testing to OTTL. In addition, the correspondence elaborates on the regulatory requirement to submit associated test results for tank, line, and ELD testing to OTTL. The correspondence is available on the State Water Board UST Program [OTTL web page](#).<sup>3</sup>

In addition to the correspondence, and to ensure critical testing information is provided to OTTL, the OTTL has developed a test notification form for submitting tank, line, and

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<sup>3</sup> [https://www.waterboards.ca.gov/ust/tank\\_testers/docs/noticetosubmit\\_2020.pdf](https://www.waterboards.ca.gov/ust/tank_testers/docs/noticetosubmit_2020.pdf)

ELD test notifications to OTTL. The test notification form is available on the State Water Board UST Program [OTTL web page](#).<sup>4</sup>

For information regarding tank and line integrity or ELD test notifications, contact Mr. Sean Farrow at (916) 324-7493 or [Sean.Farrow@waterboards.ca.gov](mailto:Sean.Farrow@waterboards.ca.gov), or Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov).

## Monitoring System Certification Requirement for In-Tank Gauging

State Water Board staff routinely field the question, “When is the certification of the automatic tank gauge (ATG) required as part of the 12-month UST monitoring system certification?” While staff receive this question from UST owner and operators, service technicians and, UST inspectors, the question almost always derives from an incorrect application of the requirement, resulting in either a violation for the owner or operator, or unnecessary additional work for the service technician performing the certification, by misclassifying the ATG as release detection.

Double-walled UST systems require interstitial monitoring as defined in UST Regulation, section 2632(b) and therefore prohibits the use of an ATG as a method of release detection. Double-walled UST systems can use the ATG as part of the overfill prevention equipment or for tank inventory. Neither of these uses, overfill or tank inventory, require the ATG to be certified as part of the monitoring certification.

Conversely, while there exist some rare exceptions, virtually all single-walled UST systems require the ATG to be used as the release detection method. Since the ATG is the release detection method for single-walled UST systems, service technicians are required to certify the ATG as part of the monitoring certification every 12-months.

USTs using the ATG as part of overfill prevention equipment are required to inspect the device upon installation, repair, and at least once every 36 months. Overfill equipment inspections are documented on the *Overfill Prevention Equipment Inspection Report Form*, and not on the *Monitoring System Certification Form*.

For additional information regarding when ATG certification is required, contact Mr. Sean Farrow at (916) 324-7493 or [Sean.Farrow@waterboards.ca.gov](mailto:Sean.Farrow@waterboards.ca.gov), or Mr. Tom Henderson at (916) 341-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov).

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<sup>4</sup> [https://www.waterboards.ca.gov/ust/tank\\_testers/docs/testnotification\\_2020.pdf](https://www.waterboards.ca.gov/ust/tank_testers/docs/testnotification_2020.pdf)



## Underground Storage Tanks Connected to Tanks in Underground Areas

Beginning July 1, 2018, tanks in underground areas (TIUGA) are regulated by the Office of State Fire Marshal as aboveground storage tanks (ASTs). This date was established by effective date of TIUGA regulations. Additionally, TIUGAs and associated pipe are exempt from the definition of a UST, in accordance with Health and Safety Code (H&SC), section 25281(y)(1)(E).

The piping associated with a TIUGA, if shared with a UST, specifically includes the liquid product and return piping and associated pump or turbine, up to the tank top fitting. However, UST sumps containing the liquid product and return piping connections, additional components within the sump, and any other shared TIUGA and UST components, other than the TIUGA supply and return pipe and associated pump or turbine, are part of the UST system and must meet all UST requirements.

For additional information regarding TIUGAs connected to USTs, 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).

## Changes to Report 6 and Associated Documents

The United States Environmental Protection Agency (U.S. EPA) revised the UST compliance performance measures known as technical compliance rate (TCR), to reflect changes to the federal UST regulations of 2015. Additionally, the U.S. EPA requires states to provide the number of field constructed tanks (FCT) and airport hydrant systems (AHS) within their jurisdiction. UPAs will submit the FCT data as part of the Report 6 due on September 1, 2020. Reporting AHS data will require collaboration between State Water Board, UPAs, and operating hydrant system owners and operators to determine if AHS are subject to UST regulation and therefore also subject to reporting. State Water Board will begin coordination this summer with all the involved regulatory agencies. UPAs will begin reporting AHS data as part of Report 6 due on September 1, 2021.

The U.S. EPA defines an FCT as:

*A tank constructed in the field. For example, tanks constructed of concrete that is poured in the field, or steel or fiberglass tanks primarily fabricated in the field are considered field-constructed.*

This is a broad definition and goes beyond what the State Water Board has historically termed as Bulk Field Constructed Storage Tanks ([LG-151](#))<sup>5</sup>. Therefore, any UST where either the primary or secondary containment was poured, assembled or constructed onsite or in situ must be identified and reported as an FCT in the upcoming Report 6 due on September 1, 2020.

Additionally, the Report 6 will require UPAs to identify using the CERS identification number, those facilities with USTs that have received a red tag during the report period or have an abandoned or temporarily closed UST as of the closing date of the reporting period.

For additional information regarding changes to Report 6, 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).

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<sup>5</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/leak\\_prevention/lgs/151\\_3.shtml](https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/151_3.shtml)