



UST Program Update June 2019

Issuing Violations Consistent with Underground Storage Tank Regulations

The State Water Resources Control Board (State Water Board) has the responsibility to ensure requirements of California Code of Regulations, title 23, division 3, chapter 16 Underground Storage Tank (UST Regulations) and Health and Safety Code, division 20, chapter 6.7 (H&SC) are implemented consistently statewide, including issuing notices of violations. When UST Regulations and H&SC are implemented by a Unified Program Agency (UPA) inconsistently and violations are issued inappropriately, the State Water Board receives negative feedback from UST stakeholders. The primary purpose of the UST program is to ensure that UST systems comply with design and construction standards and are monitored, tested, inspected, and operated in a safe condition in accordance with applicable UST requirements. Violations may not be issued for equipment and activities that are not specifically required to comply with design, construction, monitoring, testing, and inspection requirements. For example, UPAs cannot issue a violation for not complying with secondary containment construction requirements for damaged secondary containment test boots because secondary containment test boots are not required to comply with design and construction requirements (UST Regulations, § 2630(c)). As another example, UPAs cannot issue a violation for not complying with designated UST operator inspection requirements for overfill prevention alarms that do not have an appropriate response documented because overfill alarms are not leak detection alarms (UST Regulations, Appendix XIII, § VIII.).

For more information regarding consistent implementation of the UST requirements please contact Mr. Cory Hootman at (916) 341-5668 or at Cory.Hootman@waterboards.ca.gov.

Notice of Proposed UST Biodiesel Regulations and Opportunity to Provide Comment

On May 12, 2019 the State Water Board distributed a Lyris email notifying regulators and stakeholders of proposed amendments to the UST Regulations, regarding the storage of biodiesel and the opportunity to comment on the amendments. The proposed amendment to section 2631 recognizes diesel containing 20 percent biodiesel (B20) as an equivalent to diesel stored in double-walled UST systems, unless any material or component of the UST system is determined not compatible with B20. The State Water Board also proposes to delete section 2631.2, which provided a temporary variance for biodiesel blends from June 1, 2009 to June 1, 2012, because it is inoperative.

On May 22, 2019 the State Water Board distributed a Lyris email notifying UST regulators and stakeholders of a revised notice regarding the proposed amendments for the storage of biodiesel and the opportunity to comment on the amendments. The revised notice extended the comment period.

The public comment period for the proposed UST biodiesel regulations is now open and ends on July 1, 2019 at noon. Any interested person 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) 341-5620, or by mail or hand delivery addressed to: Jeanine Townsend, Clerk to the Board, State Water Resources Control Board, P.O. Box 100, Sacramento, CA 95812-2000 (by mail) or 1001 I Street, 24th Floor, Sacramento, CA 95814 (by hand delivery).

The proposed rulemaking package and information required to submit comments is available at: https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/bio_regs/

For more information regarding the proposed UST biodiesel regulations, please contact Mr. Cory Hootman at (916) 341-5668 or at Cory.Hootman@waterboards.ca.gov.

Secondary Containment Under Dispensers

Unauthorized releases from product piping within a dispenser must be directed into monitored secondary containment. If a dispenser in combination with under-dispenser containment, under-dispenser spill containment, or control systems could expose backfill material to an unauthorized release from the product piping within the dispenser, an auxiliary device must be installed within or beneath the dispenser to effectively divert unauthorized releases into monitored secondary containment. Auxiliary devices of this type (e.g., deflector plates) are not under-dispenser spill containment or control systems, nor are they required to be periodically tested as part of the secondary containment.

The UST owner or operator should consult with their UPA prior to installing any device intended to divert unauthorized releases into monitored secondary containment. Any unauthorized release from dispensers must be investigated, repaired, and recorded or reported by the UST owner or operator. This subject was detailed in a letter sent to the UST community which can be viewed here: https://www.waterboards.ca.gov/ust/tech_notices/docs/disp_second_contain.pdf.

For more information regarding secondary containment under dispensers, please contact Mr. Cory Hootman at (916) 341-5668 or at Cory.Hootman@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or at Tom.Henderson@waterboards.ca.gov.

Dispensing from a UST With an Affixed Red Tag

Effective January 1, 2019, the laws governing the application of red tags changed in H&SC. Specifically, once an UPA or the State Water Board has determined affixing a red tag to a UST fill pipe is necessary, no withdrawals may be made except to empty the UST pursuant to a directive issued by an UPA or the State Water Board (H&SC, § 25292.3(c)(1)(C)).

To meet a directive to empty a UST, the regulated community has proposed emptying USTs through dispensers rather than emptying USTs through the fill pipe. Although statute does not specify the method to be used to empty a UST, there are clear situations where emptying a UST through dispensers would not be allowed; for example, if a red tag was affixed because of a leaking product line. If the owner or operator is directed to empty a UST, the UST must be emptied as soon as possible but no later than 48 hours of receiving the directive and in a manner that does not pose an imminent threat to human health, safety, or the environment (H&SC, § 25292.3(a)(2)(B)).

For more information regarding red tags, please contact Mr. Cory Hootman at (916) 341 5668 or at Cory.Hootman@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or at Tom.Henderson@waterboards.ca.gov.

Reviewing and Revising UPA Policies and Procedures

UPAs are required to have policies and procedures in place as part of their UPA certification. Occasionally, these policies and procedures will need revisions to stay current with changes to UST program requirements. Recently, there have been changes to UST program requirements such as permitting, overfill inspections, spill container testing, and regulatory forms. UPAs should revise and update their policies and procedures as necessary to ensure policies and procedures are current and consistent with UPA program implementation.

UPAs should keep apprised of all changes to UST program requirements and revise policies and procedures as necessary. One way to keep up with changes to UST program requirements is by signing up for the UST program listserv. To subscribe to the UST program listserv, please visit the following: https://www.waterboards.ca.gov/resources/email_subscriptions/ust_subscribe.html.

For more information regarding updating policies and procedures, or subscribing to the UST program listserv, please contact Mr. Sean Farrow at (916) 324-7493 or at Sean.Farrow@waterboards.ca.gov, Ms. Lisa Jensen at (916) 319-0742 or at Lisa.Jensen@waterboards.ca.gov, or Ms. Jessica Botsford at (916) 341-7338 or at Jessica.Botsford@waterboards.ca.gov.

Testing and Inspections Deadlines

Testing and inspections that must be completed before or during the month the testing or inspection is required. Testing and inspections performed early – performed before the month the testing or inspection is required to be completed – must perform the next test or inspection before or during the month the early testing or inspection was performed. Testing and inspections performed late – performed after the month the testing or inspection is required to be completed – must perform the next test or inspection before or during the month the testing or inspection was previously required (UST Regulations, § 2620(e)). This provision does not apply to testing or inspections for which the UST Regulations require the testing or inspection to be complete in units of days (e.g., designated UST operator inspections, repair testing, repair inspections, etc.).

For more information regarding testing and inspection deadlines please contact Mr. Cory Hootman at (916) 341-5668 or at Cory.Hootman@waterboards.ca.gov.

International Code Council California Specific Exams Revised

The State Water Board convened a committee of designated UST operators, UST service technicians, UST inspectors, and other stakeholders to revise the California specific International Code Council (ICC) UST exams to reflect changes in UST statute, regulations, and reference materials. Specifically, the California UST Inspector, California UST Service Technician, and California UST System Operator exams were revised to modify content regarding, but not limited to; issuance of UST operating permits, red tag requirements, and overflow prevention equipment inspection requirements. In addition, the references used to study for these exams have been updated to include the most recent published editions. State Water Board staff will provide notification through Lyris email, the State Water Board UST Program's webpage and the monthly UST Program Update when the revised ICC UST exams begin to be offered. In addition, the exam references located on the State Water Board UST Program's California UST System Exam References webpage will be updated with the latest ICC UST exam reference materials at that time. Although subject to change, we expect the revised exams to be offered beginning in July 2019.

For more information regarding the revised California specific ICC UST exams, please contact Mr. Cory Hootman at (916) 341-5668 or at Cory.Hootman@waterboards.ca.gov.