



# UST Program Update November 2021

## UST Facility Compliance Inspection Requirements and the Energy Policy Act of 2005

On October 22, 2021, the State Water Resources Control Board (State Water Board) sent a [letter to the Unified Program Agencies](#)<sup>1</sup> (UPAs) regarding the annual underground storage tank (UST) facility compliance inspection reporting requirements. California Code of Regulations, title 23, division 3, chapter 16 (UST Regulations), section 2713(d) requires the UPAs to report to the State Water Board no later than January 31<sup>st</sup> each year, the number of UST facilities where a compliance inspection was not performed over the previous calendar year.

The State Water Board is required to report annually to the United States Environmental Protection Agency (U.S. EPA) on several performance measures as part of the Energy Policy Act of 2005 (EPAAct). One of the EPAAct performance measures requires states to certify that a UST facility compliance inspection has been conducted at every UST facility at least once during the past three years, thereby meeting the federal inspection frequency. At the direction of U.S. EPA, the California Environmental Reporting System (CERS) will be utilized to verify each UPA has complied with the federal UST inspection frequency.

To assist UPAs in verifying the accuracy of UST facility compliance inspections, the State Water Board and the California Environmental Protection Agency created the [UST Routine Inspection Frequency](#)<sup>2</sup> search tool. UPAs should utilize this tool early to identify those facilities where a compliance inspection has not been performed during the 2021 calendar year, or to ensure the correct data has been properly uploaded to CERS. This report will assist UPAs in identifying missing inspections and/or inaccurate

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<sup>1</sup> <https://www.waterboards.ca.gov/ust/docs/compliance-inspection-reporting-and-enclosures.pdf>

<sup>2</sup> <https://cersregulator2.calepa.ca.gov/Reports/USTRoutineInspectionFrequencySearchHomePage>

data. State Water Board staff strongly suggest UPAs run the CERS *UST Routine Inspection Frequency* search now and again in mid-December. As a reminder, virtual or desk audit UST compliance inspections without an on-site element do not satisfy the UST compliance inspection provision of the EPAct.

For more information regarding compliance inspections reporting requirements, contact: Mr. Johnny Wales at (804) 852-7274 or [Johnny.Wales@waterboards.ca.gov](mailto:Johnny.Wales@waterboards.ca.gov), or Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov).

## Public Records and Red Tag Information Web Pages

In addition to the UST inspection frequency certification above, the EPAct requires states to annually update a public summary of the number of current UST facilities, systems, inspections performed, and available data on unauthorized release sources and causes. On November 1, 2021, the State Water Board updated the [Public Records Summary Information of Underground Storage Tanks web page](#)<sup>3</sup>. The reporting period for the summary is July 1, 2020, through June 30, 2021, and includes the percentage of UST systems in compliance with the technical compliance rate performance measure.

Additionally, the State Water Board has updated the [Red Tag Data and Regulations web page](#)<sup>4</sup>, which depicts the total number of red tags applied per year and the breakdown of the significant violations for which the red tags were affixed. This information is updated semi-annually and analyzed for significant violation trends.

For information regarding the public records and red tag web pages, please contact Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov), or Mr. Steven Mullery at (916) 341-5508 or [Steven.Mullery@waterboards.ca.gov](mailto:Steven.Mullery@waterboards.ca.gov).

## Single-Walled Vent and Riser Piping on Waste Oil Underground Storage Tanks

State Water Board staff are aware of several UPAs allowing waste oil USTs to utilize the secondary containment exemption for vent or tank riser piping in violation of UST Regulations, section 2636(a)(1). This exemption is only permissible when overflow prevention equipment (OPE) meeting the performance standards of UST Regulations, section 2635(c)(1)(B) or (C) are met. As part of previous compliance inspections, UPAs should have already identified which systems used both exemptions and the routes owners or operators of these systems should have taken to return their systems to compliance. We are not seeing any improvement to this situation. UPAs are directed to

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<sup>3</sup> [https://www.waterboards.ca.gov/ust/leak\\_prevention/public\\_record\\_sum\\_info.html](https://www.waterboards.ca.gov/ust/leak_prevention/public_record_sum_info.html)

<sup>4</sup> [https://www.waterboards.ca.gov/ust/enforcement/red\\_tag\\_regs\\_index.html](https://www.waterboards.ca.gov/ust/enforcement/red_tag_regs_index.html)

correct this error in program implementation immediately through inspection and enforcement.

To date, State Water Board staff have identified over 400 waste oil USTs utilizing both the secondary containment piping exemption and the OPE exemption as outlined in UST Regulations, section 2635(c)(2), allowing the local agency to waive the OPE requirements under certain conditions. As discussed previously in UST Technical Advisory Group meetings, conferences, and [Local Guidance \(LG\) 150](#)<sup>5</sup>, waste oil systems that utilize the secondary containment piping exemption for vent or tank riser pipe may not, under any circumstance, use the OPE exemption as this condition fails to meet the OPE performance measure required of the piping exemption. The secondary containment piping exemption by its very definition excludes the utilization of the OPE exemption.

USTs constructed with single-walled vent or riser piping and utilizing the OPE exemption have three options to return to compliance:

1. Secondarily contain all vent and/or riser piping;
2. Systems with an automatic tank gauge (ATG) and vent restrictor installed before October 1, 2018 must list these devices in CERS as the tank OPE and properly inspect those devices in accordance with UST Regulations, section 2637.2; or,
3. Install new or inspect existing positive shutoff in accordance with UST Regulations, sections 2635(c)(1)(C) and 2637.2.

Per UST Regulations, 2635(d), installing new flow restrictors on vent piping is not an acceptable method of overfill prevention. Further, positive shut off devices mechanically interrupt the flow of product entering the tank. All positive shut off devices must properly activate and be compatible with the substance stored. Flapper valves utilized in most fueling USTs require a high flow volume to activate and will not work for most waste oil USTs. ATGs utilized to activate valves in the waste oil fill line have been successfully utilized as positive shut off. Additional information regarding OPE methods, exemptions, and piping construction requirements is discussed in detail in [LG-150](#), *Underground Storage Tank Overfill Prevention Equipment*.

For additional information regarding secondary containment pipe exemption, overfill prevention equipment, and overfill prevention equipment exemptions, or a list, contact: Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov), or

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<sup>5</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/leak\\_prevention/lgs/docs/150-3.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/docs/150-3.pdf)

Mr. Austin Lemire-Baeten at (916) 327-5612 or [Austin.Lemire-Baeten@waterboards.ca.gov](mailto:Austin.Lemire-Baeten@waterboards.ca.gov).

## Single-Walled UST Closure Commitment Plan

The State Water Board, in collaboration with the U.S. EPA and Redhorse Corporation, have contacted single-walled UST owners and operators requesting they submit a survey addressing the closure of their systems. The survey packet, titled the *UST Closure Commitment Plan*, discusses general timelines for UST closures and installs, and highlights potential bottlenecks in the closure process that may not be anticipated by UST owners and operators that have not previously closed a UST system.

The State Water Board is requesting the UST owners or operators submit the survey included in the *UST Closure Commitment Plan* allowing the State Water Board and UPAs to further assist in the closure process. The survey asks UST owners and operators general questions about selecting a contractor, preparing and submitting plans and permits, and establishing funding for the closure project. The information provided will assist the State Water Board in tracking the single-walled UST facilities' progress towards permanent closure.

The State Water Board will be hosting remote workshops on the single-walled *UST Closure Commitment Plan* using Microsoft Teams. The workshops date and times are:

- **December 14, 2021, from 10:00 a.m. to noon**  
[Click here to join the meeting](#)
- **January 13, 2022, from 4:00 p.m. to 6:00 p.m.**  
[Click here to join the meeting](#)

For additional information regarding UST Closure Commitment Plans, contact: Mr. Johnny Wales at (804) 852-7274 or [Johnny.Wales@waterboards.ca.gov](mailto:Johnny.Wales@waterboards.ca.gov), or Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov).