

2019 Updates to UST Regulations: What you need to know

January 2019

The new year brings new underground storage tank (“UST”) regulation. On January 1, 2019, amendments to the UST provisions of the Health and Safety Code (“H&SC”), Assembly Bill No. 2902, became effective.

The new UST regulations expand agency authority and flexibility to issue permits and notices of violations. It also broadens the definition for emergency generator tank systems to include systems that store kerosene. Entities with kerosene tanks are now subject to the same regulations as those that store diesel. (H&SC, ch. 6.7, section 25281.5).

UST owners should be aware that the new regulations allow Unified Program Agencies (“UPAs”) to issue or renew UST operating permits to a facility not in full compliance. (H&SC, ch. 6.7, section 25285). Previously, UPAs were prohibited from issuing or renewing a UST operating permit if the UST was not in compliance with H&SC, chapter 6.7. The UST regulation now in effect will allow permitting despite noncompliance unless a red tag is affixed to the UST system, signifying a significant violation that poses an imminent threat to human health or a failure to correct a significant violation, or if the UST facility is subject to an enforcement action by the State Water Resources Control Board (the “State Water Board”), the UPA or another authorized entity. A UPA may still issue a permit pending an appeal, petition, or reconsideration of the enforcement action, after consultation with the State Water Board.

The new provisions in H&SC, chapter 6.7 section 25292.3 also extend the red tag authority of the State Water Board staff. The State Water Board is now authorized to affix red tags to any hazardous substance UST, can issue a notice of significant violation and can affix a red tag if the significant violation is not corrected. Additionally, the new regulations prohibit the delivery, deposit and input of a hazardous substance into, and withdrawal of the stored substance from, a red tagged UST system, except to empty the UST at the direction of the State Water Board or the UPA.

If you would like more information about how the UST regulations may affect you or your business, please contact us at contact@HartmanKingLaw.com.

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