



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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To Regulated Businesses:

The California Environmental Protection Agency (Cal/EPA) wants you to know that the law changed so your aboveground storage tank (AST) will now be regulated by your local government agency (Certified Unified Program Agency [CUPA]) instead of the Regional Water Quality Control Board (RWQCB).¹

The previous law required an AST facility owner or operator to file a storage statement with and remit a fee to the State Water Resources Control Board. The previous law also required the CUPA's to verify the presence of spill prevention control and countermeasure plans and to refer non-compliant facilities to the state.

This means that on January 1, 2008, the CUPA's are vested with the responsibility and authority to implement the Aboveground Petroleum Storage Act (APSA) program. A fact sheet detailing the various aspects of the APSA program is enclosed. In addition, the bill and other information are available on the Cal/EPA Unified Program web site at <http://www.calepa.ca.gov/CUPA/Aboveground/>. The APSA program requires inspections at least once every three years of all regulated facilities that have aboveground petroleum storage tanks containing 10,000 gallons or more. It also continues the annual tank facility statement requirement, but most AST facilities will now meet this requirement by having a current business plan under the Hazardous Materials Release Response Plans and Inventories program. The APSA also provides that no fees associated with the APSA program may be assessed upon or collected from a regulated facility until January 1, 2010. Beginning in January 2010, any fee will be established by the CUPA's. The state will retain authorization to oversee the cleanup-related efforts with regard to a release at a tank facility.

Your local CUPA will contact you regarding the APSA program. If you have any questions or need further assistance, you may find your local CUPA using the Cal/EPA Unified Program directory search at <http://www.calepa.ca.gov/CUPA/Directory/default.aspx>.

Jim Bohon, Manager
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Enclosure

¹Assembly Bill 1130 (Laird), the Aboveground Petroleum Storage Act, was signed by Governor Arnold Schwarzenegger, chaptered on October 13, 2007, and went into effect on January 1, 2008.



California Environmental Protection Agency Unified Program

Fact Sheet
December 2007

Aboveground Petroleum Storage Act
Assembly Bill 1130 (Laird)
Chaptered October 13, 2007

SUMMARY

This bill transfers the responsibility for the implementation, enforcement, and administration of the Aboveground Petroleum Storage Act (APSA) from the State Water Resources Control Board (SWRCB) to the Certified Unified Program Agencies (CUPA's). The bill authorizes the expenditure of a portion of the moneys in the Environmental Protection Trust Fund (EPTF), upon appropriation by the Legislature, in an amount determined by the Secretary for Environmental Protection (Secretary) in consultation with the CUPA's, to a training account established and maintained by the Secretary to be used for purposes of training CUPA personnel in the requirements of the act. The bill allocates all remaining funds to the CUPA's for expenditure to implement the act, but limits to 80% or less the allocation to a CUPA in advance of actual expenditure by the CUPA. The bill also makes conforming changes to ensure consistency with the federal Spill Prevention Control and Countermeasure (SPCC) rule provided in the U.S. Code of Federal Regulations, title 40, part 112 (40CFR112).

PREVIOUS LAW

Previous law required the SWRCB and the Regional Water Quality Control Boards (RWQCB's) to administer the program with regard to a tank facility that is subject to specified federal regulations. CUPA's, during routine compliance inspections conducted at tank facilities pursuant to other Unified Program elements, were required to verify that an SPCC plan has been prepared. If an SPCC plan had not been prepared, the CUPA's were required to submit a referral to the appropriate RWQCB for enforcement. Previous law also required a tank facility owner or operator to file a storage statement with the SWRCB and pay the fee specified in law to the SWRCB.

THE BILL

- 1) Is effective on January 1, 2008.
- 2) Establishes the California Aboveground Petroleum Storage Act (APSA).
- 3) Defines key terms, such as: *aboveground storage tank; petroleum; storage capacity; tank facility*, etc.
- 4) Identifies when tank facilities are subject to and exempt from the APSA.
- 5) Transfers the authority and responsibility for administration of the APSA from the SWRCB and RWQCBs to the CUPA's.
- 6) Requires the owner or operator of a tank facility, with an aggregate storage capacity \geq 1,320 gallons of petroleum, to prepare and implement an SPCC plan in accordance with federal law, 40CFR112.

- 7) Requires the CUPA's to conduct inspections at tank facilities with an aggregate storage capacity \geq 10,000 gallons of petroleum at least every three years. The purpose of the inspection is to determine whether the owner or operator is in compliance with the SPCC plan requirements of the APSA.
- 8) Allows the CUPA's to develop an alternative inspection and compliance plan, subject to approval by the Secretary.
- 9) Provides that an inspection conducted by a CUPA does not require the oversight of a professional engineer.
- 10) Provides that the person conducting the inspection shall complete an aboveground storage tank training program and satisfactorily pass an examination on the SPCC plan provisions and safety requirements for aboveground storage tank inspections. The training program and examination are to be developed by the Secretary.
- 11) Requires the owner or operator of a tank facility to annually file a tank facility statement with the CUPA. The submission of a business plan satisfies the requirement to submit the tank facility statement.
- 12) Requires that the governing body of the CUPA establish a fee, as part of the single fee system, at a level sufficient to pay the necessary and reasonable costs incurred by the CUPA in administering the APSA including but not limited to inspections, enforcement and administrative costs.
- 13) Prevents CUPA's from assessing and collecting an APSA-related fee from tank facilities until January 1, 2010.
- 14) Allows a CUPA to waive the APSA related single fee for a state or local government agency that submits a tank facility statement.
- 15) Requires each owner or operator of a tank facility to immediately report, upon discovery, to the Governor's Office of Emergency Services and the CUPA, the occurrence of a spill or release of 42 gallons or more of petroleum.
- 16) Requires the California Environmental Protection Agency (Cal/EPA) to expend funds from the EPTF, in consultation with the CUPA's, in the following manner:
 - a) For the purposes of training CUPA personnel in the requirements of the APSA.
 - b) To the CUPA's for the purpose of implementing the APSA.
- 17) Establishes civil penalties and specifies that any penalties assessed and recovered in a civil action by a city attorney or a district attorney would be shared 50% to the UPA and 50% to the city attorney or district attorney.
- 18) Clarifies that transportation-related tanks regulated by the U.S. Department of Transportation and underground storage tanks are not subject to the APSA.

CONTACT

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