

State Water Resources Control Board

Date: January 1, 2026

Local Guidance 201

Acceptable Local Ordinances for the Underground Storage Tank Program

To: Unified Program Agencies

The purpose of this guidance is to clarify the limitations on local ordinances for the underground storage tank (UST) program. This includes the process for obtaining the required State Water Resources Control Board (State Water Board) approval of any local UST design and construction standards that are in addition to the standards established by Health and Safety Code (H&SC), division 20, chapter 6.7, section 25280 et seq (chapter 6.7) and California Code of Regulations, title 23, division 3, chapter 16, section 2610 et seq. (UST Regulations). Although not addressed in this guidance, local ordinances also must be consistent with H&SC, division 20, chapter 6.11, section 25404 et seq. and implementing regulations.

Authority

In accordance with H&SC section 25299.2, Unified Program Agencies (UPAs) may adopt and enforce any regulation, requirement, or standard of performance (collectively referred to as “local ordinances”) that is more stringent than H&SC chapter 6.7, the UST Regulations, or implementing guidance, if the local ordinance is consistent with H&SC chapter 6.7, the UST Regulations, and implementing guidance. Pursuant to H&SC section 25299.4, however, an UPA cannot implement any design and construction standards that are in addition to H&SC sections 25290.1, 25290.2 and 25291 and UST Regulations, articles 4, 5, and 6 without the approval of the State Water Board. Nor can an UPA adopt or enforce any local ordinance that is less stringent or otherwise inconsistent with H&SC chapter 6.7, the UST Regulations, or implementing guidance.

Local Ordinance Requirements

Local Ordinances Must Be Consistent With H&SC Chapter 6.7, the UST Regulations, and Implementing Guidance

All local ordinances implementing the UST program must be consistent with H&SC chapter 6.7, the UST Regulations, and implementing guidance. Generally, local ordinances should not include any changes to definitions of terms defined in H&SC chapter 6.7 or the UST Regulations, even seemingly minor changes may contradict the use of that term in one or more place in H&SC chapter 6.7 or the UST Regulations. Instead, UPAs should use and define a similar, but different term than the one defined

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in H&SC chapter 6.7 or the UST Regulations to address any needs not covered by the definition in H&SC chapter 6.7 or the UST Regulations.

Local ordinances also may not include timelines that are different than those set forth in H&SC chapter 6.7 or the UST Regulations, except as permitted by the express wording of the provision in H&SC chapter 6.7 or the UST Regulations. For example, section 2614 of the UST Regulations, provides a minimum timeline for test notifications, allowing UPAs to set a more stringent, longer deadline through a local ordinance, and also allowing UPAs to waive the notification requirement where appropriate. An example of a timeline that cannot be changed by a local ordinance is the requirement under section 2631(f) for all UST systems to have a visual inspection performed by a designated UST operator at least once every 30 days. This is a federal requirement, and it cannot be changed to monthly or to any other timeframe.

UPAs may establish procedures for obtaining UPA approvals required by H&SC chapter 6.7 and the UST Regulations through local ordinances. For example, local ordinances commonly set fees and procedures for obtaining permits to construct and permits to close a UST. Unlike operating permits, permits to construct and permits to close a UST are not required by H&SC chapter 6.7 or the UST Regulations, but local ordinances commonly require them as a means for the UPA to ensure that UST owners and operators comply with the H&SC chapter 6.7 or the UST Regulations. Please note that the requirements for construction and closure of a UST under these local ordinances must be consistent with H&SC chapter 6.7, the UST Regulations, and implementing guidance. Please also review the section below before adopting or enforcing any additional design and construction standards.

In some circumstances UPAs may wish to incorporate external documents by reference in a local ordinance. If doing so, the UPA should clearly reference the document by specifying the title, date, edition, and other relevant details. Please note that UPAs should use caution when incorporating documents by reference that may be modified frequently as these revisions may result in the UPA having to revise its local ordinance.

UPAs Must Receive State Water Board Approval Before Adopting and Enforcing Any Additional Design and Construction Standards

Pursuant to H&SC section 25299.4(a), a UPA must receive State Water Board approval before adopting and enforcing any design and construction standards (construction, monitoring, and testing) that are in addition to those established in H&SC chapter 6.7 and the UST Regulations, articles 4, 5, and 6. Section 2621 of the UST Regulations provides the requirements for an UPA application for additional design and construction standards and the State Water Board's review process. The UPA's application must include a description of the proposed standards. Please note that a UPA should not just provide a copy of the proposed local ordinance. The UPA also must provide clear and convincing evidence that additional standards are necessary to protect the soil and beneficial uses of the waters of the state from unauthorized releases. For example, if the UPA would like to require UST owners or operators to install two forms of overfill prevention equipment, the UPA would need to convince the State Water Board that the second overfill prevention device is necessary for every UST within the UPA's jurisdiction to protect the waters of the state. In addition, the UPA must provide any

environmental information or documentation required for compliance with the California Environmental Quality Act. After receiving a complete application, the State Water Board will conduct an investigation and a public hearing on the proposed additional standards before determining whether to authorize the UPA to adopt and enforce the additional standards.

How to Request Approval for Additional Design and Construction Standards

The State Water Board encourages UPAs considering applying for additional design and construction standards to discuss options with State Water Board UST Leak Prevention staff before making an application. If an UPA does choose to make an application, the UPA must submit a complete application in accordance with section 2621 of the UST Regulations to the Division of Water Quality Underground Storage Tank Program Manager for approval of the system

The State Water Board is required to hold a public hearing prior to making its determination whether to approve the additional standards. If the State Water Board does not approve the application, the proposed local ordinance cannot go into effect.

Local Ordinance Approval by the State Water Board

General Review Process for Ordinances

UPAs should review their existing local ordinances to ensure they are consistent with H&SC chapter 6.7, the UST Regulations, and implementing guidance, and that they do not include any additional design and construction standards that have not been approved by the State Water Board. The State Water Board will review all local ordinances during the Unified Program evaluation process. UPAs also may request that UST Leak Prevention Unit staff review their existing local ordinances prior to their evaluation. All requests will be reviewed in the order received and accommodated as time permits within the Unified Program evaluation schedule.

An overview of the general local ordinance review process is provided below:

- The UPA provides its local ordinances and all external documents incorporated by reference into the local ordinances to the UST Leak Prevention Unit for review during its performance evaluation or by request.
- UST Leak Prevention Unit staff review the local ordinances for consistency with H&SC chapter 6.7, the UST Regulations, or implementing guidance. If the State Water Board determines that any local ordinance is less stringent or otherwise inconsistent with H&SC chapter 6.7, the UST Regulations, or implementing guidance, the UPA will be required to immediately stop enforcing the local ordinance and begin the process of rescinding the local ordinance or revising it to be consistent with H&SC chapter 6.7, the UST Regulations, or implementing guidance.
- UST Leak Prevention Unit staff also will review the local ordinances for any additional design and construction standards that have not been approved by the State Water Board. If the State Water Board determines that any local ordinance includes additional design and construction standards that have not been approved

formally by the State Water Board, the UPA will be required to immediately stop enforcing the local ordinance and begin the process of rescinding the local ordinance or revising it to delete the additional design and construction standards. The UPA also may begin the application process for formal State Water Board approval to implement additional design and construction standards.

If you have questions regarding local ordinance requirements, please contact UST Leak Prevention Unit staff.

Sincerely,

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