

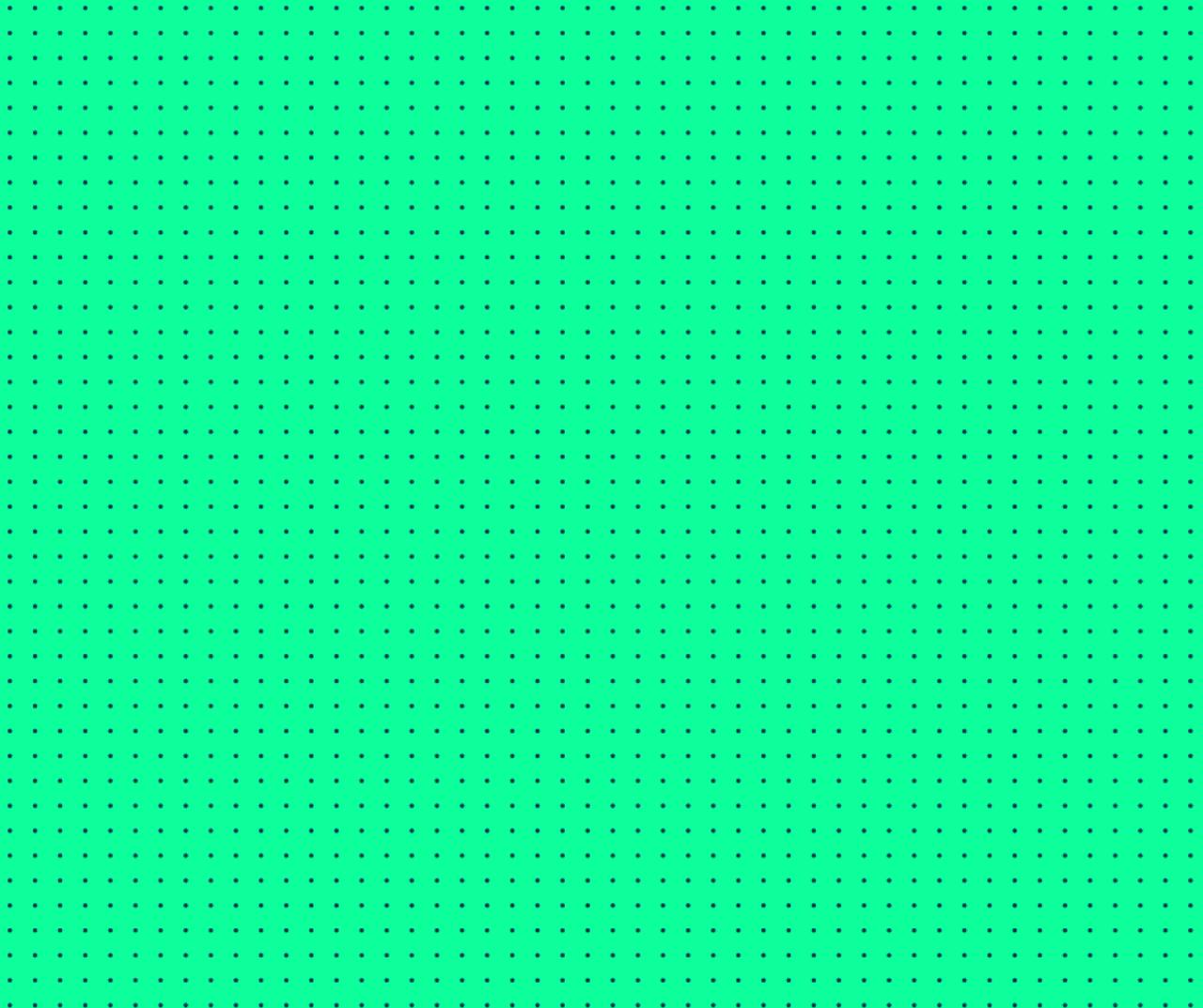


Environment Protection Authority

Consultation report – summary of stakeholder comments

Draft guidelines for implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019

December 2020



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Underground petroleum storage systems (UPSS) are commonly found in places where fuel is stored or used. These are mainly service station sites (around 2,400), general stores, car dealerships, marinas, golf courses and work depots. Leaks from underground storage systems can contaminate soil and groundwater. Clean-up can be costly, complex and time consuming.

The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation commenced in 2008 and a set of guidelines was published in 2009 to help persons responsible for a UPSS comply with the Regulation.

The Regulation was remade in 2019 and coincided with the transition of regulatory responsibility for many UPSS sites back to local councils on 1 September 2019. The EPA remains the appropriate regulatory authority for UPSS at licensed sites, those operated by public authorities and those located in the Unincorporated Area of NSW.

The EPA has updated the guidelines to support the implementation of the 2019 Regulation.

Summary

The new EPA guidelines provide local government and industry with clear information on best management practices that are required to comply with the Regulation and minimise the risk of pollution and site contamination from leaking underground fuel systems.

The draft guidelines were exhibited on the EPA's website for four weeks between 14 September and 16 October 2020 and comments were invited from the public and key stakeholders. Targeted consultation with the fuel industry and local government was also undertaken.

How consultation was undertaken

Comments and feedback on the draft guidelines were actively sought from key industry and government stakeholder groups and the general community via the EPA's *Have your say* engagement portal (<https://yoursay.epa.nsw.gov.au/guidelines-underground-fuel-tanks>).

Stakeholders could:

- complete a feedback questionnaire regarding specific components of the draft guidelines
- respond via email to the UPSSREG@epa.nsw.gov.au mailbox with general comments.

Written submissions were requested by 16 October 2020. They are summarised in Table 2.

The EPA offered a name and phone number for the public, industry and UPSS stakeholders to contact if they had any questions or enquiries.

The EPA also sent out UPSS e-newsletters directly to:

- the General Manager of each of the 128 local councils in NSW
- 280 individual council officers on EPA's UPSS mailout list
- 132 industry stakeholders on EPA's UPSS mailout list
- 22 members of the UPSS transition committee, which include representatives of peak industry groups, petroleum companies, local councils, consultants and contractors operating in the petroleum industry.

The EPA consulted with parties who had previously expressed interest in the development of updated guidelines.

The petroleum industry representative body, the Australasian Convenience and Petroleum Marketers Association (ACAPMA) informed its members and subscribers to its weekly newsletter.

The EPA facilitated a UPSS transition committee meeting on 22 October 2020 that discussed outcomes of the UPSS Guideline consultation process and received feedback.

Objectives of the consultation process

- To actively target key stakeholders for comments
- To listen carefully to stakeholder feedback on the draft guidelines
- To publish a record of feedback received and the EPA's response to both written and spoken feedback

Key stakeholder groups

The targeted stakeholder consultation process outlined above was undertaken with the following key stakeholder groups:

- **Oil companies** – BP Australia Pty Ltd, Caltex Australia Ltd, Viva Energy Australia Ltd, DIB Group Pty Ltd, Woolworths Ltd, 7-Eleven Stores Pty Ltd, United Petroleum, Metro Petroleum
- **Peak industry groups** – the Motor Traders Association (Service Stations Division), the Australasian Convenience and Petroleum Marketers Association (ACAPMA), Australian Contaminated Lands Consultants Association (ACLCA)
- **Government stakeholder groups** – Local Government NSW, SafeWork NSW, local council representatives and Council Regional Capacity Building officers
- **Industry stakeholders** – Fuel industry service providers.

Feedback and findings

The general community, local councils and industry stakeholders were invited to provide written comments to the EPA. Thirty-one written responses were received. Some stakeholders provided anonymous feedback via the EPA's *Have your say* engagement portal.

The stakeholders who provided written submissions to the EPA are listed in Table 1.

Comments have been extracted from each submission and are summarised in Table 2. To protect privacy, comments are identified as being from either industry, council, an organisation representing councils, or state government, and not ascribed to any specific individual or organisation. The EPA's response to each comment is also provided in Table 2.

Analysis and discussion

The key points raised in the submissions were:

- It should be made clearer how the guidelines operate with other industry standards and codes (e.g. Australian Standards AS4897 and SafeWork NSW – storage and handling of flammable and combustible liquids).
- There should be better references to council planning processes and requirements for installing, modifying or decommissioning a UPSS.
- Part 6 and Appendix 6 should make clearer the distinction between the reporting requirements related to decommissioning of a UPSS and those related to site validation.
- The document should discuss managing and recording monitoring results in a centralised database off site rather than in the fuel system operation plan.

Recommendations

After considering the written submissions, the EPA made the following changes to the guidelines before finalising them:

- included references to work health and safety documents in section 1.5, along with contact details for SafeWork NSW
- included a reference to a duly qualified person(s) being required for the decommissioning process
- included the requirement for leak detection for tanks and piping as mandatory equipment for new and modified UPSS (section 2.2 of the guidelines)
- made clear the distinction between checking groundwater monitoring wells and sampling groundwater monitoring wells
- included the requirement for written instructions to be provided by a duly qualified person to the person responsible for the UPSS on how to check groundwater monitoring wells (GMWs), with the instructions to be kept in the fuel system operations plan
- noted that, if results from GMW checks/tests are stored in a centrally maintained database, they are to be made available within three days of being requested by an authorised officer
- added references as necessary throughout the document to the requirements of AS4897, i.e. tank-pit observation wells
- where appropriate, specified 'must' instead of 'should' to provide greater clarity on requirements
- ensured references throughout document reflect the most up-to-date documents
- aligned section 4.2 (on fuel system operations plans) with text on the EPA website
- consolidated section 6 (Decommissioning a UPSS) with Appendix 6 (Site reporting requirements following decommissioning of a UPSS), to streamline guidance
- added a flow diagram, Figure 1 from *UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS*, that gives an overview of the requirements for decommissioning, abandoning or removing a UPSS
- outlined that requirements and/or approvals may be necessary from local council for the proposed tank removal and/or remediation works (section 6.2)
- clarified the need to notify SafeWork NSW when proposing to decommission a UPSS
- provided further clarity to the reporting requirements that follow decommissioning, removal or replacement of a UPSS, and aligned these with the regulatory requirements.
- expanded Appendix 4 to relate to all consent and determining authorities
- consolidated Appendix 6 to provide a decommissioning checklist only.

Other recommendations for the EPA, not specific to the guidelines

- Consider expanding current series of UPSS factsheets to include:
 - site validation requirements
 - site decommissioning.
- Consider rolling out additional training to councils regarding:
 - developing UPSS compliance programs
 - case studies for managing UPSS leak notifications.

Table 1 Stakeholders who provided written submissions

Type of stakeholder	Stakeholder name
Individual	Anonymous individual (2)
Company	BP Australia
Company	Complete Petro-Chem Consulting Services
Company	DW Osborne Consulting
Company	Environmental Monitoring Solutions
Company	Ground Doctor Pty Ltd
Company	Harwood Environmental Consultants
Company	Neo Consulting Pty Ltd
Company	RCA Australia
Company	Viva Energy Australia Pty Ltd
Body representing councils	Canberra Region Joint Organisation
Body representing councils	Hunter Joint Organisation
Body representing councils	Northern Rivers Contaminated Land Program
Council	Bathurst Regional Council
Council	Camden Council
Council	Cumberland City Council
Council	Hornsby Shire Council
Council	Inner West Council
Council	Ku-ring-gai Council
Council	Lithgow Council
Council	Liverpool City Council
Council	Narrandera Shire Council
Council	Northern Beaches council
Council	Penrith City Council
Council	Port Macquarie – Hastings Council
Council	Sutherland Shire Council
Council	Upper Lachlan Shire Council
State Government	Local Government NSW
State Government	SafeWork NSW
State Government	Sydney Water

Table 2 Summary of public consultation responses 14 September–16 October 2020

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
1. Introduction	1.3 Appropriate Regulatory Authority	Council	Can councils get further assistance or guidance to determine the person responsible for a UPSS site?	Noted	Outside scope of these guidelines. For inclusion in additional EPA training to council officers, which is under consideration.
1. Introduction	1.3 Appropriate Regulatory Authority	Industry	The Regulation and Guideline should apply to all pipework and tanks situated partially or fully below ground.	Noted	The Regulation is clear about what parts of a UPSS are subject to the Regulation. This guideline cannot override the Regulation. The Regulation applies to all UPSSs in NSW, except for: <i>storage systems where all tanks are situated wholly above ground (regardless of where any associated pipes, valves and other equipment are situated)</i>
1. Introduction	1.5 Related documents	Industry	Should also include AS60079 series to ensure operators are aware of the need to identify Hazardous Areas and specify correct electrical equipment and prepare a Hazardous Areas Dossier to include in the Site Manifest (WH&S Regs and FSOP).	Noted	This information is beyond the scope of the Guidelines and is safety related. Subject to regulation by SafeWork NSW.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
1. Introduction	1.6 Person responsible	Council and Industry	Clarity/guidance is required on how a corporation should nominate the responsible person to the Appropriate Regulatory Authority.	Disagree	The Fuel System Operation Plan includes a requirement for the person responsible to be identified in the plan. The guidelines are clear on this requirement.
1. Introduction	1.7 Duly qualified person	Organisation representing councils	List decommissioning tanks as an activity requiring a 'duly qualified person' to undertake.	Agree	Inserted into decommissioning paragraph.
1. Introduction	1.7 Duly qualified person	Council	NSW EPA should maintain a register of duly qualified persons who may be authorised by Council to undertake the inspections.	Disagree	Not EPA's role to maintain a register of DQP's. The EPA will continue working with Australasian Convenient and Petroleum Marketers Association (ACAPMA) to meet this need.
1. Introduction	1.7 Duly qualified person	Organisation representing councils	It is recommended that examples be provided of when such duly qualified people may be required.	Agree	EPA will produce fact sheet on assessing duly qualified persons
1. Introduction	1.8 Planning issues	State Government	While UPSS sites on their own do not require an EPL, there may be other site factors or activities that require an EPL and therefore trigger integrated development. It would be helpful if this was clarified in the document to remove any ambiguity.	Agree	Now referred to as 'most' development proposals

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
1. Introduction	1.8 Planning issues	State Government	The guideline should also include and/or be mindful of Part 5, Division 5.1 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act).	Agree	Appendix 4 amended to include consent authorities
1. Introduction	1.9 Exemptions	Council and Organisation representing councils	Further assistance or guidance (of what a Council Exemption Policy might look like?	Disagree	Explanation provided is considered appropriate due to wide scope of possible exemptions.
2. UPSS equipment	2.2 Mandatory equipment	Industry	It is recommended that the guideline be brought in line with the relevant Australian Standard AS4897 and the definition of product piping be updated to exclude remote fill lines from the secondary containment requirement.	Noted	Guideline specifies 'as required by AS4897'.
2. UPSS equipment	2.2 Mandatory equipment	Industry	It is important to add the requirement for leak monitoring at this point as it is the Key Area to ensure operators carry out best practice. Add dot point – Leak monitoring for tanks and piping.	Agree	Included additional dot point in the guidelines.
2. UPSS equipment	2.3 Leak detection system	Company	"If groundwater cannot be found by a depth of 10 metres an alternative leak detection system should be considered." Consider increasing this to 20 m as high value inland groundwater sources used for town water supply are located along alluvial valleys of our major inland rivers. Depth to water in these systems is typically between 10 m and 20 m below ground level.	Noted.	Maintain 10 m guidance. Duly qualified person needs to advise on the suitability of any alternative leak detection system so this is another safeguard to ensure either GMWs or an equivalent alternative are installed as a leak detection system.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
2. UPSS equipment	2.3 Leak detection system	Industry	In many company-owned, company-operated sites these records are maintained electronically and a reference to where these records can be found is made in the fuel system operations plan (FSOP). it is simply not feasible to keep individual results exclusively within each individual FSOP (instead of electronically) for over 200 sites.	Agree	Guidelines amended to include records being kept in a centralised database and being available upon request by an authorised officer. Text also amended to permit omissions of signature from test records where they are kept electronically
2. UPSS equipment	2.3 Leak detection system	Council	The duly qualified person should not only provide written instructions to the person responsible for maintaining the groundwater monitoring wells on how to undertake testing and recording of results, they should also provide training and ensure the person responsible can complete well testing and recording competently.	Agree	Training of the person responsible and/or person responsible is included in text. This can only occur at the time of well installation. Subsequent site operators will have the testing procedure handed over as part of document transfer requirements.
2. UPSS equipment	2.3 Leak detection system	Council	Under the heading “Groundwater test records” on page 11, would be helpful if the following was included in what the records must include Whether samples were taken by a duly qualified person and sent to a NATA-accredited laboratory.	Agree	Text amended to clarify concern raised

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
2. UPSS equipment	2.3 Leak detection system	Council	If Council is notified that there are hydrocarbons in the groundwater or off-site migration has occurred is there another guide or EPA process? This document does not provide any clear guidelines as to how this is to be treated.	None	Council is to be notified as per 4.7. Identified discrepancies investigated as per 4.4.
2. UPSS equipment	2.3 Leak detection system	Council	Testing of wells could be carried out at least monthly not 6 monthly as the draft guidelines suggest. I believe this is a more appropriate time period to detect leaks earlier.	Disagree	Cost impost to site operators would be significant. Loss monitoring is the immediate process to detect leaks. Leak detection systems are only a backup.
2. UPSS equipment	Alternative leak detection systems	Organisation representing councils	There is no real mention of the ARA's role in approval of an alternate leak detection system. If a "Duly Qualified Person" states that an alternate leak detection system is suitable for use, must the ARA accept this stance? Or are they required to approve the alternate system also?	None	The Regulation requires that an alternative LDS to be endorsed by a DQP as being appropriate. The ARA is not required to approve it.
2. UPSS equipment	Alternative leak detection systems	Council	Figure 2 – The third blue box in the flowchart provides the direction to 'Notify ARA'. This could be an opportunity to also identify the need to liaise with Council to determine whether approval for the works is required.	Agree	Added text: *** note: certain remediation works may require development approval

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
2. UPSS equipment	Alternative leak detection systems	Organisation representing councils	Figure 2 – the flowchart: It is recommended that the wording in blue box be modified to allow for the inclusion of generic pollution incident notification forms. E.g. <i>“Notify ARA (using any applicable UPSS or pollution incident notification form determined by the ARA)”</i> .	Agree	Text amended
2. UPSS equipment	Alternative leak detection systems	State Government	Figure 2 – Suggest a definition of “do the lab results indicate loss” is provided so there is no ambiguity to enable appropriate trigger of the next step in the process tree.	Agree	Text amended to <i>“Has free phase petroleum been detected in water sample?”</i>
2. UPSS equipment	Alternative leak detection systems	Organisation representing councils	Why does the UPSS guideline reference 10 metres as the groundwater depth to trigger consideration of an alternative leak detection system when the trigger in 4.5.7.1 of AS4897 is 7 metres?	Noted	10 m is more conservative than AS4897. The Regulation only calls up AS4897 for equipment standards, not Loss Mon and Leak Detection. The Reg requires LM as the primary ‘control no.’ and LD as the secondary. We think beyond 10 m it is worth looking for an alternative LD system to GW bores. This is not inconsistent with the AS.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
2. UPSS equipment	Alternative leak detection systems	Organisation representing councils	“The duly qualified person is required to provide the person responsible for maintaining the groundwater monitoring wells with a detailed written instruction on how to undertake testing of the wells and recording the results”. This information would be useful in the fuel system operations plan.	Agree	Include in text – testing of wells. Update FSOP fact sheet.
2. UPSS equipment	Tank-pit observation wells	Industry	Refer to RP001 for a schematic on the correct installation of tank-pit monitor wells. Remove dot point three in the second section. One tank monitor can be installed between two tanks with the tank excavation floor graded to the pit sump. Remove dot point four as the tank pit monitor sits in or slightly below the tank floor under the sand bed. Tank Monitors must be constructed from Fibre Reinforced Concrete tubes, NOT PVC, to avoid static discharges.	Agree	Guideline updated accordingly.
2. UPSS equipment	Visual observation	Industry	Whilst regular inspections for sheen is an indicator the vast majority of waterways sheens are caused by other boating activities rather than leaking UPSS. All new marine installations MUST have ATG's and enhanced SIRA. Existing marina installations should be strongly encouraged to use enhanced SIRA.	None	This requirement determined and regulated during planning phase. All new UPSS meet AS4897.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
3. Design and installation of a UPSS	3.2 Equipment Integrity Testing	NSW EPA	<p>The USEPA has revised the standard test procedures to ensure they address functionality, reflect current information and technology and incorporate the 2015 UST requirements.</p> <p>The current reference requires updating to reflect this latest document.</p>	Agree	<p>Inserted reference and link to: General Guidance For Using EPA's Standard Test Procedures For Evaluating Release Detection Methods (EPA 510-B-19-006). May 2019.</p>
3. Design and installation of a UPSS	3.2 Equipment Integrity Testing	NSW EPA	<p>Text to be included into paragraph to make the AS4897 requirement explicit.</p> <p>The person performing the EIT must provide the person responsible for the UPSS with a certificate stating how the testing was carried out, <i>that the method used is a certified method</i> and results of the EIT. These documents must be kept for seven years after the system is decommissioned.</p>	Agree	Text amended.
3. Design and installation of a UPSS	3.2 Equipment Integrity Testing	Industry	Include tank lining as requirement for EIT.	Agree	Text amended.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
3. Design and installation of a UPSS	3.3 Record-keeping	Industry	<p><i>“the person responsible must also keep records during the life of the system that detail any modifications, replacement of tanks and piping and any EITs and decommissioning and the site reports.</i></p> <p>Recommend that this requirement be changed to: <i>available documentation will be passed to subsequent operators only where practicable and not subject to legal privilege.</i></p>	Disagree	Legal requirement of the UPSS Regulation, overrides legal privilege. the law does not permit compliance only where ‘practicable’.
4. Operation of a UPSS	4.1 Introduction	Industry	<p>The fuel system operations plan forms part of the Site Manifest as required by the WH&S Regulation (Dangerous Goods). The Site Manifest is a good device (and a legal requirement) so UPSS operators should be made aware of it as well as the UPSS requirements.</p> <p>WH&S also refers to an Emergency Evacuation Plan and several other key requirements (SDSs) and the need to submit an Emergency Plan to the Fire Commissioner for approval. These should be referred to as well so as not to suggest that only AS4897 and the UPSS Regulations need to be complied with.</p>	Noted	Beyond scope of these UPSS Guidelines.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
4. Operation of a UPSS	4.2 Fuel System Operation Plan	Organisation representing councils	Some operators still call a FSOP an 'environment protection plan' so may need to state this up front of Section 4.2 i.e. "...formerly known as environment protection plan".	Agree	Include reference to formerly being an Environment Protection Plan.
4. Operation of a UPSS	4.2 Fuel System Operation Plan	Organisation representing councils	The NSW EPA webpage FSOP information and FSOP template uses slightly different wording to the list in the Guideline (and listed in a different order). It would be beneficial for the UPSS Regulation, UPSS Guideline and NSW EPA website list to be consistent (in the same order and using the same terminology) to avoid confusion.	Agree	Text amended to reflect webpage text.
4. Operation of a UPSS	4.2 Fuel System Operation Plan	Organisation representing councils	It is recommended that this be amended to read "...incident management training that has been undertaken on the site, including the name, postal address."	Agree	Text amended.
4. Operation of a UPSS	4.2 Fuel System Operation Plan	Industry	Regardless of format, the Plan must be readily accessible on the storage site to provide guidance on the appropriate actions in the event of a leak, spill or other emergency. A soft copy is recommended as electronic copies may not be able to be accessed in case of a fire emergency.	Noted	Regulation stipulates FSOP in either hard or electric form is appropriate.
4. Operation of a UPSS	4.3 Loss monitoring	State Government	Not all UPSS are used for the sale of petroleum substances. We suggest the inclusion of or used in the text.	Agree	Text amended

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
4. Operation of a UPSS	4.3 Loss monitoring	State Government	Suggest clarification is added to establish the minimum number of loss monitoring systems required (assumed to be 1?)	Agree	Text amended advising a combination of loss monitoring systems can be used at a site.
4. Operation of a UPSS	4.3 Loss monitoring	State Government	Suggest a definition of “discrepancy in fuel levels” is provided so there is no ambiguity to enable appropriate trigger of the next steps in the process tree.	Agree	Definition added to Appendix 1.
4. Operation of a UPSS	4.3 Loss monitoring	Organisation representing councils	Given the number of errors that can be associated with manual dipping, there should be a requirement that if manual dipping is undertaken, that a duly qualified person provides a written procedure and training to ensure that data is collected accurately.	Disagree	Cost prohibitive to operators and impractical to enforce
4. Operation of a UPSS	4.3 Loss monitoring	Organisation representing councils	A recommended tank-dipping method is provided in Appendix D3.3 of AS4897, but it is not clear if this method meets the regulation requirements.	Agree	Text added to reference Appendix D.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
4. Operation of a UPSS	4.3 Loss monitoring	Organisation representing councils	Manual dipping is acceptable if the operator can demonstrate that the process can detect any loss from the system at or above 0.76 L/hour with at least 95% accuracy. Is this possible? Where is the documentation to outline what this process would look like?	Noted.	A Manual Loss Monitoring system will require certification to demonstrate it meets a loss rate on 0.76L/hr (95% UCL), from a duly qualified person. Intention of the guideline is not to prohibit manual loss monitoring. While acknowledging difficulty to get a manual system certified, it is not impossible.
4. Operation of a UPSS	4.3 Loss monitoring	Organisation representing councils	The 1990 US EPA standard test procedure listed has been revised and the guidelines should reference the revised document. Is the latest document still relevant?	Agree	Reference updated.
4. Operation of a UPSS	4.3 Loss monitoring	Industry	Due to the high potential for discrepancies this method is not the most reliable and not recommended. Operators are encouraged to use automated systems wherever possible. Suggest deleting: <i>Note that SIRA can only be as accurate as the data input into it.</i>	Agree	Removed text as suggested.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
4. Operation of a UPSS	Other loss monitoring methods	Industry	<p><i>Interstitial monitoring detects any change in liquid or pressure in the space between double-skinned tanks and piping systems. It is only suitable as a back-up loss monitoring system for a UPSS.</i></p> <p>Tanks and piping systems can be fitted with a permanent gauge that monitors the pressure in the interstice of either a tank or pipework. A loss in pressure is an immediate alarm for a failure.</p>	Agree	Text amended. Interstitial monitoring can be used as an alternative Leak detection system, but as it cannot quantify losses, it can't be a Loss Monitoring system.
4. Operation of a UPSS	4.4 Loss detection and investigation procedures	State Government	There is a discrepancy between this and figure 2 (page 13) regarding the time within which investigations are to occur. Figure 2 specifies <i>'within 30 days'</i> and section 4.4 specifies <i>'the person responsible must investigate the discrepancy within 60 days'</i> .	Noted.	30 days for detection of product in GMWs (leak detection) and within 60 days if loss monitoring identifies discrepancy.
4. Operation of a UPSS	4.4 Loss detection and investigation procedures	Industry	<p>States a requirement to <i>'record the details of the actions taken in your fuel system operations plan'</i>.</p> <p>Confirmation current practice of centralised record keeping is acceptable and that the guidelines be updated to expressly allow for the electronic collection, collation and storage of such data.</p>	Agree	Changes made.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
4. Operation of a UPSS	4.9 Record-keeping	Organisation representing councils	Council would like to see a requirement included that ensures councils are notified of any change to the person responsible for a UPSS site. The former person responsible should notify the ARA of the change and provide the necessary contact details for the current person responsible.	noted	This would require changing the Reg which is beyond the scope of this Guideline. The UPSS Reg requires the person responsible to be identified in the FSOP which is all that the Guideline can insist on.
4. Operation of a UPSS	4.9 Record-keeping	Organisation representing councils	We recommend that this requirement be amended so once the former person responsible provides the relevant information to the person responsible, they must notify the ARA that this step was undertaken and provide the contact details of the new person responsible so that the ARA can update their records	Noted	See above. Unnecessary administrative burden. Update FSOP the only requirement.
4. Operation of a UPSS	4.9 Record-keeping	Industry	For decommissioning... also require why it was decommissioned, when, how, what method was used, legal disposal of contaminated water /fuel from tank, degassing certificates, Certificate of legal destruction if removed or filling with inert material (Cement slurry or Hard Cell Foam), copies of a Preliminary Investigation and a RAP as well as the final Validation to ARA within 60 days. And Plan of "tank in ground" if abandoned in situ with measurements from a fixed source.	Agree	Text added.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
5. Modifying a UPSS	5.1 Repair of a UPSS	Organisation representing councils	A “competent and experienced person” is mentioned in these sections. How does this differ to a ‘duly qualified person’?	Agree	Text amended to retain consistency.
5. Modifying a UPSS	Piping and repair of tanks	Industry	Include further detail on requirements	Disagree	One aim of the guidelines is to reduce prescription. Standards on piping and repair adequately covered in AS4897.
5. Modifying a UPSS	5.2 Re-use of UPSS Tanks	Organisation representing councils	Guideline does not address any restrictions on the re-use of UPSS tanks for non-fuel use such as greywater to irrigate a lawn (once appropriately decommissioned).	Agree?	Text amended to stipulate AS4897 requirement in this regard.
5. Modifying a UPSS	5.2 Re-use of UPSS Tanks	Industry	Further detail required on re-use of tanks.	Disagree	Adequately covered in section 5.2 outlining when steel tanks can be used.
6. Decommissioning a UPSS	6.1 Decommissioning a tank or system	Council	For contamination issues the guideline should require a “Certified Contaminated Land Consultant” be the correct person to be engaged in contamination assessment and validation that includes sign-off for completed works. Consistency with new SEPP55 policy.	Disagree	6.1 requires a duly qualified person to be engaged. This does not exclude a ‘certified contamination land consultant’. less prescription desirable as a range of people can be qualified to carry out these functions.
6. Decommissioning a UPSS	6.1 Decommissioning a tank or system	Industry	Expand requirements of DQP viz decommissioning.	Agree	Text in 6.1 amended.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
6. Decommissioning a UPSS	6.1 Decommissioning a tank or system	Council	The guidelines should reflect that where remediation works are deemed to be Category 1 works under SREP20, they will require separate development consent. Include advice that prior to the conducting of any proposed remediation works, contact should be made with the local councils for advice prior to the undertaking of any such works.	Agree	6.2 – text added to consult with local authority.
6. Decommissioning a UPSS	6.1 Decommissioning a tank or system	State Government	<i>Examples of when it may be not be reasonably practicable to remove a tank include where the removal would damage: the supporting structure of an existing building ...</i> please consider including example's such as damage to other below ground infrastructure or assets.	Agree	Included reference to sub-surface assets and infrastructure in 6.1.
6. Decommissioning a UPSS	6.1 Decommissioning a tank or system	Organisation representing councils	Guideline should better address the steps required for the removal, remediation and validation of UPSS.	Agree	Include Figure 1 from technical note in section 6. A Fact Sheet on decommissioning and validation will be published by the EPA.
6. Decommissioning a UPSS	6.2 Regulatory requirements	Council	Include discussion here regarding the need to determine whether Council approval is required for the proposed works and to include a note advising the reader that if remediation is required, liaise with Council to determine whether approval is needed.	Agree	6.2 – text added to consult with local authority

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
6. Decommissioning a UPSS	6.2 Regulatory requirements	State Government	This section should make it clear that for Public Authorities and EPL licenced premises, only the EPA requires correspondence and the report.	Disagree	Regulation stipulates local authority to be notified regardless of who is ARA. This is to ensure land use planning records are kept up to date. Reference already included in 6.2 for requirements in unincorporated areas.
6. Decommissioning a UPSS	6.2 Regulatory requirements	Organisation representing councils	There should be a separate section to address the remediation and validation of a site as this is more complex than the process required to remove or replace a tank.	Agree	Covered in Appendix 6.
6. Decommissioning a UPSS	6.3 Work health and safety requirements	State Government	The Guideline should clarify whether SafeWork NSW must also be notified of tank decommissioning. It would also be helpful to include the definition of 'abandoned' in Appendix 1.	Agree	Definition included in Appendix clarification made in section 6.3.
Appendix 2	-	Industry	The interpretation of qualifications required for these specialised UPSS activities MUST NOT be left up to Council staff.	Disagree	ARA is to determine if nominated person is duly qualified person to undertake or complete specified works. ARA has powers to require works if not done appropriately.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
Appendix 4	-	State Government	Table 5 should also apply to Determining Authorities to assist approvals regarding UPSSs made under Part 5, Division 5.1 (EP&A Act) comply with the Regulation.	Agree	Amendments made to Table 5.
Appendix 4	-	Organisation representing councils	Further clarification should be provided around the responsibilities for spills, as the NSW EPA is the ARA for Public Authorities, premises with an EPL, unincorporated areas and site subject to an EPA Notice.	Disagree	Beyond scope of this guideline. Spills and run-off not covered under UPSS Regulation, rather POEO Act.
Appendix 4	-	Industry	A UPS System, by its nature, will exceed the Placard and Manifest Quantities of Schedule 11 of the WH&S Regulation 2019 therefore the UPSS installation and operation will need to comply with the requirements of the WH&S Regs.	Agree	Reference to the WH&S Regulation 2011 added at 3.1.
Appendix 6	-	Council	It is noted that this section doesn't reference the NSW EPA Sampling Design Guidelines and the NSW EPA Technical Note: Investigation of Service Station Sites.	Agree	NSW EPA Sampling Design Guidelines (currently under revision) to be referenced.
Appendix 6	-	Organisation representing Councils	Reference to Clause 24 should be included here as Clause 23 only relates to decommissioning, not the referenced decommissioning, abandonment or removal.	Noted	Section 6 and Appendix 6 integrated and re-drafted.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
Appendix 6	-	Organisation representing Councils	<p><i>“A clear statement that the duly qualified person considers the subject site to be suitable for the proposed use or other nominated potential uses”</i></p> <p>This statement is at odds with the Regulation, whereby Clause 23 requires:</p> <p><i>“(3) A report referred to in subclause (2) must –</i></p> <p><i>(a) Be prepared by a duly qualified person in accordance with EPA guidelines, and</i></p> <p><i>(b) Describe the processes used to decommission the storage system and assess contamination at the storage site”.</i></p>	Agree	Section 6 and Appendix 6 integrated and re-drafted.
Appendix 6	-	Industry	A decommissioning report and validation report are two separate reports completed by two separate disciplines. For the sake of avoiding conflict of interests the Reports should remain as separate Reports.	Agree	Section 6 and Appendix 6 integrated and re-drafted.
General comments	-	Council and Organisation representing councils	The Council will be developing fees and charges: what is a reasonable fee and what are other councils likely to be charging?	Noted	Beyond the intended scope of UPSS Guidelines

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
General comments	-	Council	The Draft Guideline does not provide comment on the issue of whether Council approval is required for UPSS removal works generally and what works may trigger the need to obtain approval.	Noted.	Planning requirements differ between councils. Reference has been included for person responsible to contact council to determine planning requirements.
General comments	-	Organisation representing Councils	The current document "Planning and Development Process for Sites with Underground Petroleum Storage Systems" has not been updated since 2010.	Agree	This document will be superseded once these guidelines are published and will be from circulation
General comments	-	Organisation representing Councils	Provide a standardised risk matrix of UPSS within the guidelines to assist regulatory practice.	Disagree	Developing a risk matrix and/or compliance strategy for UPSS is beyond the scope of these guidelines.
General comments	-	Council	It would be beneficial if a generic checklist template be included as an appendix in the guidelines to assist with regulatory consistency of UPSS by Councils.	Noted	Audit checklists have been provided to councils during UPSS handover in 2019.
General comments	-	Council	The practice notes and fact sheets referred to could be included as part of the guidelines for ease of readability.	Noted	Gazettal approval required for any changes to Guideline. EPA's intention is to keep technical detail separate so it can be more easily updated.

Section in draft guideline	Subsection	Stakeholder	Comment	Recommendation and/or outcome	EPA response
General comments	-	Council	The Regulation should be amended to require persons responsible for a UPSS to provide an annual compliance report on performance of the UPSS to the Appropriate Regulatory Authority each year.	Disagree	Amendment of UPSS Regulation is NOT within scope.
General comments	-	Council	Sections 2–4 frequently defer to Australian Standards and don't in themselves provide a single point of information.	Noted	The EPA's intention is not to duplicate existing information.