

Unified Program Newsletter – April 2020

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CalEPA

CERS Knowledge Base, Help Articles and FAQs

(<https://cers.calepa.ca.gov/newsletter-articles>)

Business Portal Help: How to upload Hazardous Materials Inventory or Owner/Operator data to multiple facilities (under one business/organization)

(<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/04/CERS-Business-Portal-Help-Newsletter-Article-April-2020.pdf>)

CalEPA Regulatory Compliance Statement (4/15/20)

On April 15, 2020, CalEPA issued the “[Statement on Compliance with Regulatory Requirements During the COVID-19 Emergency](#)”

(<https://calepa.ca.gov/2020/04/15/calepa-statement-on-compliance-with-regulatory-requirements-during-the-covid-19-emergencycalepa-policy-statement-on-covid-19-and-environmental-enforcement/>)

To provide entities regulated under the Unified Program with additional compliance assistance as a result of the COVID-19 emergency, CalEPA, DTSC, State Water Board, CalFire/OSFM, Cal OES, and local Certified Unified Program Agencies (CUPA) will closely coordinate and collaborate to process all requests for compliance assistance in a timely manner. Specific remedies may be warranted, but regulated entities unable to meet a specific regulatory requirement due to emergency government directives or a specific hardship must contact the appropriate CalEPA board, department, or office before falling out of compliance. Please use the [Unified Program contacts](#) to email requests to the Unified Program State Agencies for any of the six (6) Unified Program hazardous materials and waste programs.

(<https://calepa.ca.gov/cupa/contacts>)

CalEPA also recommends that the regulated entities copy their local CUPAs when requesting assistance from the state agencies. Please use the [Unified Program Regulatory Directory](#) to obtain your local CUPA's contact information

(<http://cersapps.calepa.ca.gov/Public/Directory>).

Requirement to Post Unified Program Facility Permit

CalEPA was recently contacted by a few businesses concerning the requirement to post the Unified Program Facility Permit (UPFP). CalEPA was informed that several CUPAs are requiring the UPFP to be posted on site. In some cases, facilities may be receiving violations for not posting their UPFP on site. CalEPA reviewed a number of CUPA UPFPs and confirmed that most include a statement that requires the permit to be posted at the facility. A review of state law showed there is no statute or regulation requiring the UPFP to be posted. The underground storage tank (UST) program regulations does require a paper or electronic copy of the permit be readily accessible at the facility, but not necessarily posted on site. Unless a local ordinance requires the posting of a UPFP, a CUPA may not require a business to post their UPFP. CalEPA has requested CUPAs to review their UPFPs and update if necessary.

If a local ordinance requires the posting of a UPFP, then the local ordinance is required to be identified in the California Environmental Reporting System (CERS). A review of the Unified Program Local Reporting Requirement Listing from CERS shows there are no CUPAs currently requiring the UPFP to be posted. For those CUPAs that have adopted a local ordinance requiring the UPFP to be posted, CalEPA has requested the submission of these ordinances and will identify them in CERS.

State Water Board

Underground Storage Tank Requirements During Shelter-in-Place Orders

The State Water Resources Control Board (State Water Board) in a [letter dated March 19, 2020](#), advised UST stakeholders on expectations during the health and safety restrictions associated with Coronavirus-2019 (COVID-19). The State Water Board advises UST stakeholders to follow all health and safety guidance. The letter also acknowledged that UST owners and operators may not be able to keep their USTs in compliance with restrictions in place, however, owners and operators must ensure

that critical leak detection, monitoring, and cathodic protection systems remain in operation at all times and that all leak detection alarms are responded to appropriately. (https://www.waterboards.ca.gov/water_issues/programs/ust/docs/covid_letter.pdf)

Documentation will be critical in assisting owners and operators in returning to compliance once restrictions have been lifted. The State Water Board recommends the following:

UST Owners and Operators: Document any relevant information showing the efforts made to maintain compliance and, to the extent possible, include:

- Documentation of the specific circumstances leading to any delay in conducting tests, maintenance, and inspections that prevent USTs from being in compliance; and
- Documentation showing that all critical UST leak detection, monitoring, and cathodic protection equipment remain operational and all leak detection and monitoring alarms have been responded to appropriately.

Documenting these efforts is necessary to assist Unified Program Agencies (UPAs) to determine if UST owners and operators took all appropriate actions given the current circumstances.

International Code Counsel (ICC) Certificate Holders: ICC testing centers have temporarily closed effective March 17, 2020. As a result, UST Installers/Retrofitters, Service Technicians, Designated UST Operators, and UST Inspectors are unable to retest. UST owners and operators should attempt to locate and utilize alternate installers/retrofitters, service technicians, or designated operators with current ICC certifications. Should any of these activities be performed by individuals with ICC certifications that expired after March 17, 2020, UPAs cannot waive UST requirements; they can, however, implement enforcement discretion.

UPAs: During the COVID-19 restrictions, UPAs likely will perform a limited number of compliance inspections and should document the beginning and end of the period when compliance inspections are not being performed and be prepared to provide a list of facilities where the compliance inspections were not conducted in a timely manner. Additionally, UPAs should be prepared to assist UST owners and operators and their contractors in returning UST facilities to compliance after the restrictions are lifted. UST owners and operators who provide clear documentation that they have acted in good faith to remain in compliance, but have been unable to maintain compliance due to COVID-19 restrictions, should be allowed a reasonable opportunity to return to compliance after the restrictions are lifted. UPAs cannot waive UST requirements; they can, however, implement enforcement discretion.

The State Water Board will continue to advise UST stakeholders as circumstances change. For additional information regarding implementing UST requirements during COVID-19 public health and safety restrictions, please contact

Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov, or
Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

Assessment of Overfill Prevention Method(s)

State Water Board staff are aware of situations where two (2) or more USTs are being filled at the same time and are exclusively using an alarm as the overfill prevention method, are not meeting overfill prevention requirements. Overfill prevention methods must: 1) be set to the correct level in the tank and 2) activate when the substance stored reaches that level.

If facilities using the automatic tank gauge as an alarm as part of their overfill prevention method on multiple USTs, and will potentially fill more than one UST at a time, then the overfill prevention equipment inspection must confirm that once the first UST has reached the alarm activation level, each successive UST is immediately capable of activating when the substance reaches the alarm level.

Currently some monitoring systems used as part of overfill prevention have a built-in system delay from one (1) to 99 minutes after the annunciator is silenced and before the system can detect a second overfill condition and alarm a second time. In this described scenario, each successive UST being filled would have no overfill protection for the duration of this delay, allowing overfills to occur and cause potential releases to the environment. During annual compliance inspections or inspections of the overfill method UPAs must ensure that all USTs have overfill prevention under all normal operating conditions.

For more information regarding the overfill prevention methods, please contact Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov, or Ms. Roya Raheb at (916) 341-5668 or Roya.Raheb@waterboards.ca.gov.

Secondary Containment Sump Testing Using Low Liquid Method

State Water Board staff have received numerous inquiries regarding the updated Petroleum Equipment Institute Recommended Practices (RP) 1200-19, specifically regarding the Low Liquid Sump Test. The RP 1200-19 Low Liquid Sump Test requires confirmation that sump sensors shut off turbines or dispensers (positive shut down) once activated. It also includes an additional sump hydrostatic test utilizing up to seven (7) inches of water and an associated static test period. Utilizing only seven (7) inches of water is insufficient to fill the entire sump with water and does not allow for testing of all sump penetrations.

In 2001, the State Water Board issued LG 160, which stated that it was strongly recommended that the entire secondary containment be tested since the low liquid test method does not account for tampering or malfunctioning shutdown mechanisms. In October 2018, the State Water Board issued new [guidance on secondary containment testing](#) as part of the federal reconciliation regulations, which superseded LG 160, stating that sumps and dispenser containment must be tested in accordance with California Code of Regulation, title 23, division 3, chapter 16 (UST Regulations), section

2637. Section 2637(c) requires that: “The testing of secondary containment systems shall be conducted using a test procedure that demonstrates that the system performs at least as well as it did upon installation”.

(https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/fed_rec_regs/sec_cont_test.pdf)

State Water Board is unaware of any manufacturer whose installation test procedure does not, at a minimum, include a hydrostatic test at least above all sump penetrations. Hydrostatic pressure created by seven (7) inches of water is considerably less than the pressures created by testing above all penetrations and, therefore does not meet the requirement of UST Regulations, section 2637(c) and is not an acceptable secondary containment test method. As such the RP 1200-19 Low Liquid Sump Test does not meet the requirements of section 2637. The State Water Board will formally notice all stakeholders of any changes to this determination.

For more information on the RP-1200-19 Low Liquid Sump Test, please contact Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov, or Mr. Sean Farrow at (916) 324-7493 or Sean.Farrow@waterboards.ca.gov.

Underground Storage Tank Leak Prevention January – June 2019 Semi-Annual Report

On March 10, 2020, State Water Board provided UST stakeholders with the [UST Leak Prevention January – June 2019 Semi-Annual Report](#). This report was developed in collaboration between the United States Environmental Protection Agency (U.S. EPA) and State Water Board. The California Environmental Reporting System (CERS) and the California GeoTracker database was utilized to obtain report data. This report summarizes important subjects such as CERS implementation status, release reporting, and single-walled UST data. In addition, data are presented for each UPA and the State as a whole.

(https://www.waterboards.ca.gov/ust/adm_notices/final_accessibility_california_ust_leak_prevention_report-Jan-June2019.pdf)

A few noteworthy data points include: UPAs are meeting inspection targets, UPA inspection and follow-up continues to drive facility compliance, new regulatory requirements resulting in an increase in the number of certain violations issued by the UPAs, unauthorized release numbers remain low, and the removal of single-walled tanks/piping is sluggish.

For more information regarding *The UST Leak Prevention January – June 2019 Semi-Annual Report* to U.S. EPA, please contact Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov.

Installation of New Public Drinking Water Wells Resulting in Enhanced Leak Detection Testing at Established UST Facilities

Enhanced Leak Detection (ELD) testing is required for all UST systems that are within a 1,000-foot radius of a public drinking water well (UST Regulations, section 2640(e)). UST systems with single-walled components must complete ELD testing once every three (3) years. Double-walled UST systems must complete ELD testing only once. If a

new public drinking water well is installed within a 1,000-foot radius of an established UST system, then the owner and operator must complete ELD testing at the appropriate frequency as soon as the well becomes operational. UPAs should stay informed when new public drinking water wells are installed in their jurisdiction. Further, the State Water Board needs to be made aware of the installation of new public drinking water wells so that a notification to complete ELD can be sent to UST owners and operators.

For more information regarding installation of new public drinking water wells and ELD testing, please contact Mr. Sean Farrow at (916) 324-7493 or Sean.Farrow@waterboards.ca.gov, or Ms. Jessica Botsford at (916) 341-7338 or Jessica.Botsford@waterboards.ca.gov.

DTSC

Covid-19 Advisories

(<https://dtsc.ca.gov/dtsc-covid-19-updates/>)

30-Day Storage Extension Application to the 90-Day Hazardous Waste Accumulation Limit for RCRA Large Quantity Generators

DTSC has posted on its website a guidance for “30-Day Storage Extension Application to the 90-Day Hazardous Waste Accumulation Limit for RCRA Large Quantity Generators”. The link and directions can be found at: <https://dtsc.ca.gov/30-day-storage-extension-application/>

Generators can fill out and submit the request electronically.

If generators of non-RCRA hazardous waste need an extension, those requests are granted by the CUPAs if certain conditions are met. Those conditions are described in California Code of Regulations, title 22, 66262.35. The CUPAs can accept electronic submissions for extension requests, however, a hard copy of the extension request must also be sent to the CUPA via certified mail as required by regulation.

Additionally, DTSC’s Regulatory Assistance Office is accepting and tracking calls related to Covid-19 as well as other regulatory related questions and can be reached at 800-728-6942 or by email at RAO@dtsc.ca.gov.

References or links to information cited in this newsletter are subject to change. CalEPA is interested in your comments and suggestions regarding the Unified Program monthly newsletter. Please email your comments and suggestions to: cupa@calepa.ca.gov.

[CalEPA Unified Program Home Page](#)