

## Unified Program Newsletter – December 2020

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### CalEPA

#### CERS Knowledge Base, Help Articles and FAQs

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

#### [How to Manage Users for Your Business/Organization](https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/12/CERS-Business-Portal-Help-How-to-Manage-Users-for-Your-Business-Organization.pdf)

(<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2020/12/CERS-Business-Portal-Help-How-to-Manage-Users-for-Your-Business-Organization.pdf>)

#### **Hazardous Materials Business Plan Annual Certification Training (AB1429)**

##### Training Dates

January 27, 2021 at 11:00 am  
January 27, 2021 at 2:00 pm  
January 28, 2021 at 3:30 pm

##### Training Description:

Assembly Bill 1429 of 2019 (Chaptered by Secretary of State - Chapter 66, Statutes of 2019) changed the HMBP reporting period from annually to once every three years for businesses not subject to EPCRA Tier II reporting requirements or the Aboveground Petroleum Storage Act. AB 1429 also requires business owners/operators to annually review and certify that the HMBP information in the California Environmental Reporting

Air Resources Board • Department of Pesticide Regulation • Department of Resources Recycling and Recovery • Department of Toxic Substances Control Office of Environmental Health Hazard Assessment • State Water Resources Control Board • Regional Water Quality Control Boards

System (CERS) is complete, accurate, and, if applicable, in compliance with EPCRA reporting requirements.

This Zoom meeting will provide Owners/Operators, Consultants, and CUPA Regulators with step-by-step instructions on how to:

- Determine if you are eligible for certification
- Determine if you are subject to EPCRA reporting requirements
- Steps to completing the certification
- Regulator options concerning certification

**Training Materials & Instructor:**

CERS Technical Team/Unified Program

There are no materials required for this training. However, the [CERS Portal Help guidance](#) would be helpful.

(<https://calepa.ca.gov/wp-content/uploads/sites/6/2020/09/CERS-Business-Portal-Help-NEW-Feature-AB1429-Self-Certification-9.15.20.pdf>)

**Who Should Attend:**

Business Owners/Operators, Consultants, CUPA regulators

**Course Level & Prerequisite:**

There are no prerequisites to attend this meeting.

There will be no questions taken during the meeting. All questions should be emailed to [cers@calepa.ca.gov](mailto:cers@calepa.ca.gov) or contact Steven Gailey at [Steven.Gailey@calepa.ca.gov](mailto:Steven.Gailey@calepa.ca.gov). A list of FAQs from the previous trainings in October 2020, will be posted on the CalEPA Unified Program web site shortly.

**Dates & Time:**

January 27, 2021: 11:00 a.m.

January 27, 2021: 2:00 p.m.

January 28, 2021: 3:30 p.m.

**[23<sup>rd</sup> California Unified Program Annual Training Conference](#)**

(<https://calcupa.org/conference/index.html>)

See the Flyer at the end of this Newsletter.

**[Free Hazardous Waste Training](#)**

(<https://calcupa.org/conference/free-sessions.html>)

See the Flyer at the end of this Newsletter.

**State Water Board**

**Testing and Inspection Notification Requirement**

Title 23, division 3, chapter 16, (Underground storage tank (UST) Regulations), require the UST owner or operator to notify the Unified Program Agency (UPA) at least

48 hours prior to testing and inspection of UST components. State Water Resources Control Board (State Water Board) staff have become aware of situations where the UST owner or operator has provided notice to the UPA of an upcoming test or inspection at least 48 hours in advance, and in some cases up to 30 days in advance of the test or inspection, only for the UPA to reject the date based on scheduling conflicts. There is no provision in the Health and Safety Code, chapter 6.7 or the US Regulations that require the UPA to be present for these activities or permit the UPA to reject a date for scheduling conflicts. Except when the UPA is relying on a local ordinance or other regulatory authority, a UPA may not reject any testing and inspection dates when notification of the date is provided at least 48 hours in advance of the test or inspection.

For more information regarding testing and inspection notification requirements, contact: Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov), or Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov).

### **Verification of Tank Tester License and Manufacturer Training Certificates**

The State Water Board has become aware that UPA inspectors are not verifying individuals performing tank and/or pipe integrity testing have a tank tester license issued by the State Water Board, and manufacturer training certificate(s) for test method(s) used to conduct integrity testing. Tank tester activities are only valid if the State Water Board has issued a tank tester license, and the tank tester has completed training from the manufacturer for the test method being used (Health and Safety Code, chapter 6.7, section 25284.4(a), UST Regulations, section 2771(c)).

As you are aware, UST regulations do not require UPA inspectors to witness integrity testing activities. However, when witnessing tank tester activities, it is important UPA inspectors verify the tester performing tank and/or pipe integrity testing, is correctly licensed and trained to conduct tank and/or pipe integrity testing.

In the same manner as noted above, when UPA inspectors review submitted integrity test reports, it is necessary that UPA inspectors verify the tester has a current tank tester license issued by the State Water Board, and has current manufacturer training certificate(s) for test method(s) used to conduct integrity testing. In addition to licensing and training verification, UPA inspectors are required to review submitted integrity test reports in a timely manner and follow up with the UST owner or operator when integrity test results identify tank or pipe failure(s). If integrity test results identify tank or pipe failure(s), it is necessary that UPA inspectors ensure tank or pipe failure(s) are repaired and retested. Please reference State Water Board correspondence *When to Review Underground Storage Tank (UST) Records*<sup>1</sup> dated November 29, 2016.

To verify tank tester licensing and manufacturer training information, please reference *Local Guidance 105*<sup>2</sup>. Additionally, the Office of Tank Tester Licensing (OTTL)

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<sup>1</sup> [https://www.waterboards.ca.gov/ust/cers/docs/when\\_to\\_review\\_ust\\_records.pdf](https://www.waterboards.ca.gov/ust/cers/docs/when_to_review_ust_records.pdf)

<sup>2</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/leak\\_prevention/lgs/105\\_12.html](https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/105_12.html)

maintains information on licensed tank testers including and not limited to, tank tester license numbers and expiration dates, manufacturer training, and employer information should UPA inspectors need additional information. OTTL can be reached at [OTTL@waterboards.ca.gov](mailto:OTTL@waterboards.ca.gov).

State Water Board has also become aware of licensed tank testers incorrectly using their State Water Board issued tank tester license when performing the work of a service technician. UST Regulations, section 2715(f)(1) requires individuals performing the work of a service technician to possess or be employed by a person who possesses a license issued by the Contractors State License Board (CSLB) or have been issued a tank tester license from the State Water Board. If an UPA inspector finds a licensed tank tester utilizing their tank tester license number in monitoring and testing reports for services performed as a service technician, please be mindful that if service fees are valued at \$500.00 or more, for combined labor and materials, then the tank tester's license does not satisfy this requirement. Please review State Water Board published correspondence dated June 12, 2017, which was developed in consultation with CSLB, *Contractor License Requirements for Work Associated with Underground Storage Tanks*<sup>3</sup>, clarifying work associated with USTs and service fees.

For additional questions on tank testers or if UPA inspectors find discrepancies regarding tank tester activities, please contact OTTL using the email address [OTTL@waterboards.ca.gov](mailto:OTTL@waterboards.ca.gov). You may also contact: Ms. Laura Fisher at (916) 341-5870 or [Laura.Fisher@waterboards.ca.gov](mailto:Laura.Fisher@waterboards.ca.gov), or Mr. Tom Henderson at (916) 319-9128 or [Tom.Henderson@waterboards.ca.gov](mailto:Tom.Henderson@waterboards.ca.gov).

### **Removal of the Alternative Compatibility Option Web Site**

The State Water Board will be removing the *Alternative Compatibility Option*<sup>4</sup> web site on December 15, 2020. In 2015, the United States Environmental Protection Agency (U.S. EPA) modified the federal UST regulations requiring UST system compatibility be confirmed through an independent laboratory, or through the use of an equipment or component manufacture compatibility approval. In response to these modifications to the federal UST regulations, other national entities are now providing UST system compatibility documentation online. The State Water Board web site will include links to these other UST system compatibility web sites to assist stakeholders in finding compatibility documentation for UST components, and will update that list as more UST system compatibility web sites become available. Web sites currently offering UST system compatibility information include the Petroleum Equipment Institute (PEI<sup>5</sup>), and the Association of State and Territorial Solid Waste Management Officials Fuel Compatibility Tool<sup>6</sup> web site.

For more information regarding alternative UST system compatibility web sites, contact:

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<sup>3</sup> [https://www.waterboards.ca.gov/ust/docs/lic\\_req\\_work\\_usts\\_061717.pdf](https://www.waterboards.ca.gov/ust/docs/lic_req_work_usts_061717.pdf)

<sup>4</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/alt\\_comp\\_opt.html](https://www.waterboards.ca.gov/water_issues/programs/ust/alt_comp_opt.html)

<sup>5</sup> <https://www.pei.org/ust-component-compatibility-library>

<sup>6</sup> <http://astswmo.org/ust-compatibility-tool/>

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

### **Manufacturer Training Requirements for Secondary Containment Test Methods**

UST Regulations, section 2715(f)(2)(A), requires UST service technicians conducting secondary containment testing be trained and certified either by the manufacturer of the secondary containment system being tested or the developer of the secondary containment testing equipment or test method in accordance with section 2637(c). UST Regulations, section 2715(f)(3), further requires UST service technicians to renew this manufacturer training and certification at least once every 36 months. The State Water Board is aware that the USTest Ultrasonic Probe (UST 2001/P) used to conduct an accelerated precision hydrostatic secondary containment test method is no longer supported by the manufacturer and that calibration, training, and certification are no longer available. Vaporless Manufacturing (VMI), a contractor approved by the manufacturer, discontinued its training and certification for this device in 2018. As a result, many UST service technicians trained and certified on this equipment are reaching their training expiration dates.

The State Water Board has become aware that some UST service technicians are “self-certifying” in an attempt to meet the requirements of UST Regulations, section 2715(f). When there is no available training or certification that meets the UST Regulations, section 2715(f)(2)(A), UST Regulations, section 2715(f)(2)(E), allows the UPA to approve comparable alternate training or certification if no manufacturer or developer training exists. Before approving alternative training under this provision, the UPA must confirm that the alternate training or certification actually is comparable to training or certification by the manufacturer or developer in accordance with the requirements of UST Regulations, section 2715(f)(2)(A). “Self-certification” is not comparable alternate training and does not meet the requirements of UST Regulations, section 2715(f). UPAs are not permitted to approve “self-certification” as comparable alternative training under UST Regulations, section 2715(f)(2)(E).

For more information regarding manufacturer training and certification requirements, contact:

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

## **DTSC**

### **Public Webinar: Management of Waste Photovoltaic Modules as Universal Waste in California**

The Department of Toxic Substances Control (DTSC) will hold a public webinar on December 17, 2020, to present information on the recently approved regulation to manage waste photovoltaic modules (PV modules), commonly known as solar panels, as universal waste under California’s Universal Waste Program.

This webinar is intended to familiarize people with the requirements of the new regulation for managing PV modules as universal waste under California's Universal Waste Program.

The meeting agenda and final regulatory text will be available on the [PV module – universal waste](#) web page.

(<https://dtsc.ca.gov/photovoltaic-modules-pv-modules-universal-waste-management-regulations/>)

**Instructions for Remote Public Participation:**

Due to the COVID-19 public health emergency (Executive Orders [N-29-20](#) and [N-33-20](#)), there will be no physical public access location. Stakeholders can participate remotely via live Zoom or join the meeting by phone. If you cannot attend the webinar, it will be recorded and posted on the [PV module – universal waste webpage](#). The webinar will be held on the following date and time:

**Date:** December 17, 2020

**Time:** 10:00 am – 1:00 pm (PDT)

Register in advance for this webinar:

[https://us02web.zoom.us/webinar/register/WN\\_IPJ2OQFmS3qHqNDWu\\_0PbQ](https://us02web.zoom.us/webinar/register/WN_IPJ2OQFmS3qHqNDWu_0PbQ)

**DTSC has proposed a regulatory package to remove nicotine patches, gums, and lozenges that are FDA- approved over the counter (OTC) nicotine replacement therapies from the P075 acute hazardous waste listing.**

**Background:** On August 21, 2019, the U.S. EPA's Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine Rule went into effect.

The Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine Rule includes:

- The addition of the new subpart P under 40 Code of Federal Regulations part 266, which sets forth new regulations for healthcare facilities and reverse distributors managing pharmaceuticals that are hazardous waste
- A ban on healthcare facilities and reverse distributors flushing pharmaceuticals that are hazardous waste down the drain ("sewer ban")
- Removal of nicotine patches, gums, and lozenges that are FDA-approved over the counter (OTC) nicotine replacement therapies (NRTs) from the P075 acute hazardous waste listing

U.S. EPA has identified the entire new subpart P under 40 Code of Federal Regulations part 266, which includes the "sewer ban," to be more stringent than current federal standards. As an authorized state, California is required to adopt revisions that are more stringent than current state standards in order to administer California's hazardous waste program in lieu of the federal program pursuant to the Resource Conservation

and Recovery Act (RCRA). If elements of the California's state program are more stringent than the new subpart, California may retain those more stringent elements. California is evaluating the rule to determine which federal provisions are more stringent than current state provisions.

Most provisions of the rule do not take effect in California until DTSC adopts the rule, or parts thereof, via the rulemaking process. Note that the ban on healthcare facilities and reverse distributors flushing hazardous waste pharmaceuticals ("sewer ban") was finalized under federal Hazardous and Solid Waste Amendments (HSWA) authority and took effect in all states on August 21, 2019. While the state must still adopt HSWA-related provisions to retain authorization, U.S. EPA implements the HSWA provisions until the state is granted authorization to do so.

### **Mandatory Provisions**

DTSC is required to evaluate provisions of the rule that U.S. EPA has identified as more stringent than U.S. EPA's previous regulations. DTSC is required to adopt provisions of the rule that are more stringent than California's current hazardous waste laws and implementing regulations in order to maintain authorization.

### **Optional Provisions**

DTSC may also adopt other provisions of the rule identified as either less stringent or neither more nor less stringent than U.S. EPA's previous regulations. To adopt, amend, or repeal current regulations, the Legislature must grant DTSC rulemaking authority, and the changes would require a regular rulemaking.

DTSC is currently evaluating subpart P under 40 CFR part 266 to determine which regulations are more stringent and mandatory for California adoption. DTSC will have a proposed decision on what provisions or amendments California is statutorily required to adopt by February 2021.

DTSC submitted a regulatory package to remove nicotine patches, gums, and lozenges that are FDA-approved OTC NRTs from the P075 acute hazardous waste listing in California as a non-substantive rulemaking to the Office of Administrative Law (OAL) on November 17, 2020, as required per the Administrative Procedure Act (APA).

OAL has 30 working days and an additional 120 calendar days to conduct a review of the rulemaking record and to make a decision, which will conclude on May 4, 2021. If OAL approves the rulemaking action, the regulations become effective upon approval.

This regulatory change will not be effective unless OAL approves the regulatory package. The following documents were submitted for review:

- Justification memo to OAL ([https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/12/4-P075-Listing-Section-100\\_Transmittal-Memo-to-OAL.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/12/4-P075-Listing-Section-100_Transmittal-Memo-to-OAL.pdf))
- Form 400 (<https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/12/Revised-Form-400-with-Francescas-signature-digital-signature.pdf>)

- Proposed regulation text ([https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/12/FINAL-underline\\_strikeout-text-nicotine-rule.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/12/FINAL-underline_strikeout-text-nicotine-rule.pdf))

For additional information or questions, please see <https://dtsc.ca.gov/pharmaceutical-waste-rulemaking/>

***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](mailto:cupa@calepa.ca.gov).***

**[CalEPA Unified Program Home Page](#)**

# 23rd California Unified Program Annual Training Conference

**Are you a CUPA Inspector or CUPA regulated site?**  
**Are you in need of FREE training on the Basics of Hazardous Waste?**  
**Do you know the most common violations cited during an inspection?**  
**Do you need a better understanding of reporting in CERS?**

The 23rd California Unified Program Annual Training Conference will be held  
February 2 through March 18, 2021 | Tuesday, Wednesday & Thursdays

This virtual conference provides training on all aspects of the CUPA programs  
in partnership with your CUPA inspectors.

Registration includes 152 training sessions to choose from  
and access to the California CUPA Forum Video Training Library for one year.

**Full program information is available at**  
<https://calcupa.org/CMS15/dropbox/CUPA-2021/2021agenda.pdf>

**Register at:** <https://calcupa.org/fees/index/CUPA-2021.html>

Pre-registration is mandatory for any of the **FREE TRAINING SESSIONS** on the  
**Basics of Hazardous Waste** (4 dates available, only attend one)  
or to register for the full conference

<https://calcupa.org/conference/free-sessions.html>

**Student Conference Scholarship information available at:**

<https://calcupa.org/conference/students.html>

**Sponsorship, Exhibitor Booth and DEMO information is available at:**

<https://calcupa.org/CMS15/dropbox/CUPA-2021/2021-cupa-conference-prospectus.pdf>

**For information on how to or to submit a Leadership Award nomination:**

<https://calcupa.org/submit-nominations/index.html>

**February 2 through March 18, 2021**  
**Tuesdays, Wednesdays and Thursdays**

**Early Registration discount ends**  
**January 8, 2021**

CALIFORNIA CUPA FORUM

530-676-0815

[www.calcupa.org](http://www.calcupa.org)

email questions to : [ceuadmin@calcupa.org](mailto:ceuadmin@calcupa.org) or [registration@calcupa.org](mailto:registration@calcupa.org)



# FREE HAZARDOUS WASTE TRAINING

**This training is being  
presented on the  
following dates**

(you only need to attend one session)

**February 4, 2021** 8:00am – 11:45am

**February 16, 2021** 8:00am – 11:45am

**March 4, 2021** 8:00am – 11:45am

**March 16, 2021** 8:00am – 11:45am

**For information  
on how to Register:**

[https://calcupa.org/conference/  
free-sessions.html](https://calcupa.org/conference/free-sessions.html)

For more information  
email [registration@calcupa.org](mailto:registration@calcupa.org)  
or call 530-676-0815

Full conference training is available at  
[www.calcupa.org](http://www.calcupa.org)  
if you would like more training  
and a registration fee would apply.



## **23<sup>rd</sup> Annual California Unified Program Annual Training Conference**

### **Free Hazardous Waste Training Session for Businesses**

**Attend this training session  
at no cost!**

At this year's annual CUPA conference, we will feature a no-cost training session for businesses that generate hazardous waste.

The training will cover the basics of identifying what is a hazardous waste, proper labeling and accumulation requirements, and record keeping requirements.

An overview of RCRA waste vs. non-RCRA waste and generator status (LQG, SQG or CESQG) will also be covered.

Participants will receive a comprehensive course manual and a certificate of completion



**Sponsored by and presented by:**  
California CUPA Forum and NES, Inc.

