

## Unified Program Newsletter – September 2023

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## CalEPA

### CERS Tips and Tricks

#### [Multi-Jurisdictional Businesses \(MJB\) in CERS](https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2023/08/CERS-Regulator-Portal-Help-Multi-Jurisdictional-Businesses-MJB-in-CERS.pdf)

(<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2023/08/CERS-Regulator-Portal-Help-Multi-Jurisdictional-Businesses-MJB-in-CERS.pdf>)

#### [How to Close a Business/Organization in CERS](https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2023/08/CERS-Regulator-Portal-Help-How-to-Close-a-Business-Organization-in-CERS.pdf)

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#### [How to Close a Facility in CERS](https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2023/08/CERS-Regulator-Portal-Help-How-to-Close-a-Facility-in-CERS.pdf)

(<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2023/08/CERS-Regulator-Portal-Help-How-to-Close-a-Facility-in-CERS.pdf>)

## **State Water Board**

### **UST Regulations Rewrite Webinars**

The State Water Resources Control Board (State Water Board) will be hosting preliminary informational webinars covering the draft changes to California Code of Regulations, title 23, division 3, chapter 16 (UST Regulations) prior to submitting the rulemaking in the fall of 2024. The draft UST Regulations rewrite is expected to become effective on January 1, 2026, and coincide with the single-walled closure deadline required by Health and Safety Code, division 20, chapter 6.7, section 25292.05. This series of webinars will address the draft changes to definitions, certification and licensing, construction, monitoring, and testing standards. Changes to UST cleanup and closure requirements will be addressed in separate presentations that will be announced at a later date.

Three webinars will be available on Zoom at the dates and times below and are open to the first 300 participants that log in. The webinars will be recorded and made publicly available on the Leak Prevention Unit webpage in both Spanish and Hindi. There is no reason to attend more than one webinar as each will cover the same material.

- **September 14, 2023, from 10:00 a.m. to 12:30 p.m.**  
<https://waterboards.zoom.us/j/96852014618>
- **September 19, 2023, from 2:30 p.m. to 5:00 p.m.**  
<https://waterboards.zoom.us/j/94306044536>
- **September 27, 2023, from 11:30 a.m. to 2:00 p.m.**  
<https://waterboards.zoom.us/j/92209209924>

The webinars will be recorded and made publicly available on the [Leak Prevention Unit webpage](#).

([https://www.waterboards.ca.gov/ust/leak\\_prevention/](https://www.waterboards.ca.gov/ust/leak_prevention/))

Questions will be addressed at the end of the webinar and will not be recorded.

For more information regarding the UST Regulations Rewrite Webinars contact:  
Austin Lemire-Baeten at (916) 327-5612 or [Austin.Lemire-Baeten@waterboards.ca.gov](mailto:Austin.Lemire-Baeten@waterboards.ca.gov).

### **Technical Details of Single-walled Systems (2023 CUPA Conference Presentation)**

During the 2023 Certified Unified Program Agency (CUPA) Conference, State Water Board staff presented technical information pertaining to single-walled USTs. This presentation was recorded, and is linked to the Leak Prevention Unit's [Single-Walled UST Webpage](#) under the heading *The Technical Details of Single-Walled Systems (2023 CUPA Conference Presentation)*.

([https://www.waterboards.ca.gov/ust/single\\_walled.html](https://www.waterboards.ca.gov/ust/single_walled.html))

Topics covered include monitoring, testing, and repair requirements for single-walled USTs, as well as the requirement to permanently close these systems prior to the December 31, 2025, single-walled UST closure deadline.

For more information regarding technical details of single-walled systems, contact: Austin Lemire-Baeten at (916) 327-5612 or [Austin.Lemire-Baeten@waterboards.ca.gov](mailto:Austin.Lemire-Baeten@waterboards.ca.gov).

### **Veeder-Root TLS-450PLUS California Air Resources Board Approved**

The In-Station Diagnostics (ISD) component of Veeder-Root's TLS-450PLUS monitoring panel has been approved by the California Air Resources Board (CARB) for facilities that must meet ISD requirements. While the TLS-450PLUS is currently in use at facilities that are not subject to ISD requirements, the recent approval from CARB will extend the monitoring panel's applicability throughout the rest of the State. CARB will be providing the TLS-450PLUS executive orders on their website in the near future.

For more information regarding Veeder-Root TLS-450PLUS CARB approval, contact: CARB at (800) 242-4450 or <https://ww2.arb.ca.gov/contact-us>.

### **Single-Walled Piping Repair Letter**

On August 14, 2023, State Water Board staff distributed a [notification](#) to CUPA managers and licensed tank testers outlining the requirements for repairing single-walled product piping.

([https://www.waterboards.ca.gov/ust/tech\\_notices/sw-piping-upgrade-repair-letter.pdf](https://www.waterboards.ca.gov/ust/tech_notices/sw-piping-upgrade-repair-letter.pdf))

Since October 1, 2018, any single-walled product piping in need of repair or replacement must be upgraded with secondary containment and continuous monitoring. Single-walled product piping that has been repaired on or after October 1, 2018, without upgrading with secondary containment and continuous monitoring must be immediately upgraded or permanently closed.

If single-walled product piping fails during routine testing, licensed tank testers may not re-test the pipe until it has been upgraded to meet the secondary containment and monitoring requirements specified in article 3 of the UST Regulations. Tank testers who willfully or negligently violate, cause, or allow for violations of the provisions in UST Regulations or chapter 17 of California Code of Regulations title 23, division 3 may be civilly liable and subject to notices of warning, letters of caution, fines, or license denial, suspension, or revocation.

CUPAs must review single-walled product piping test results for failures and take measures to ensure failed piping is removed from operation. Plans for permanent closure do not exempt the owner or operator from any upgrade requirements.

For more information regarding single-walled piping repair, contact:  
Kaitlin Cottrell at (916) 319-0742 or [Kaitlin.Cottrell@waterboards.ca.gov](mailto:Kaitlin.Cottrell@waterboards.ca.gov).

## **DTSC**

### **Evaluations: CME Data Issues**

In recent evaluations, DTSC has been noticing some small trends in CME data issues that we would like to share to help CUPA's prepare for their next evaluation:

- Duplication of violations and routine inspections – This issue seems to affect some CUPA's that utilize inspection software to interface and upload CME data to CERS. In particular, DTSC is noticing instances where violations are being duplicated (i.e. same citations and identical violation comments), sometimes two or three times within a single inspection, and duplication of routine inspections.
- Using Incorrect Inspection Type Coding – The HWG program has multiple inspection types (i.e. HW, HWLQG, PBR, CE, CA, HHW, HWRecycler) which are specific to certain types of facilities. The most common issue we are noticing is RCRA LQG inspections (i.e. HWLQG inspection type) and Household Hazardous Waste facility inspections (i.e. HHW inspection type) being coded as "HW" inspection types. In general, the inspection type should match the information provided in the Facility Submittal. DTSC is aware that some facilities may submit incorrect information (ex: mistakenly identify themselves as an HHW) in which case, not using the HHW inspection type would be appropriate. DTSC may bring these issues forward initially as examples of a CME Deficiency or Finding but may be able to remove them as examples after holding clarifying discussions with the CUPAs during the evaluation process.
- Big Box Stores and RCRA LQGS – DTSC is aware of some facilities that identify in CERS as RCRA LQGs (ex: Rite Aid, Walgreens, etc.), which may not actually be RCRA LQGs after EPA's changes to the listing of certain nicotine products. From our recent evaluations, we are seeing inspections at these facilities being coded as either "HW" or "HWLQG" inspection types, varying from CUPA to CUPA. Either approach may be appropriate based on the on-site conditions and an on-site generator category determination. To aid us in our evaluation DTSC will begin asking CUPAs for their approach during the Kick-Off Meeting.

In general, it is advised that CUPAs perform routine QA/QC checks of CME data to identify potential issues before they persist and become widespread, making it time consuming to fix, and possibly resulting in an Incidental Finding or Deficiency. These examples of CME issues also don't seem to be limited to any particular software or vendor, but generally coincide with CUPAs that utilize tablets/electronic inspection report templates.

## **Cal FIRE OSFM**

### **Tank Facility Statement for Farms**

**Question:** What is the tank facility statement reporting requirement for a farm under the Aboveground Petroleum Storage Act (APSA)?

**Answer:** Under APSA, an owner or operator of an APSA tank facility, including a farm, is required to annually submit a tank facility statement to the California Environmental Reporting System (CERS) on or before January 1<sup>st</sup> (Health and Safety Code [HSC] Section 25270.6(a)(1)). A tank facility statement includes the following information:

- Name and address of the tank facility,
- Contact person for the tank facility,
- Total storage capacity of the tank facility, and
- Location and contents of each petroleum aboveground storage tank that exceeds 10,000 gallons in storage capacity.

An owner or operator of an APSA tank facility is also allowed to submit a Hazardous Materials Business Plan (HMBP) in lieu of the tank facility statement to CERS (HSC Section 25270.6(a)(2)). However, under the HMBP statute, an APSA tank facility must annually submit an HMBP to CERS on or before March 1<sup>st</sup>, or by the date established by the Unified Program Agency (UPA) (HSC Sections 25508(a)(1)(B) and (a)(2)).

Under APSA, each owner or operator of an APSA tank facility, including a farm, is required to submit a **complete** HMBP to CERS to meet the tank facility statement reporting requirement (HSC Section 25270.6(a)(2)). A **complete** HMBP includes the following elements (HSC Section 25505(a)):

- Facility information (business activities and owner/operator information),
- Hazardous materials inventory and site map,
- Emergency response plans and procedures, and
- Employee training program.

The provision that exempts farms from submitting certain elements of an HMBP to CERS when conditions are met under HSC Section 25507.1(a) is not explicitly recognized under the APSA statute.

The APSA tank facility statement is available for download from the OSFM website at <https://osfm.fire.ca.gov/media/bpgbb0px/reset-fillable-accessible-tank-facility-statement-form-25jan2021.pdf>.

More information on the APSA tank facility statement reporting requirement is available on the OSFM website at <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/aboveground-petroleum-storage-tank-facility-statement-reporting-requirements/>.

### **APSA Enforcement Q&A**

**Question:** Can a tank facility owner or operator be liable for both civil and administrative penalties for the same APSA violation?

**Answer:** Yes. An UPA can issue an enforcement order and/or assess an administrative penalty for an APSA violation, and later the owner or operator may be charged civilly by a city attorney or district attorney for the same APSA violation.

However, in accordance with HSC Section 25270.12.1(d), if a civil penalty has already been imposed under HSC Section 25270.12 for an APSA violation, the UPA cannot assess an administrative penalty for the same APSA violation.

**Question:** When an aboveground petroleum storage tank, container or equipment is owned and operated by two different entities, whom does an UPA charge for enforcement purposes?

**Answer:** Enforcement may be taken on either the owner or the operator of the tank facility.

**Question:** Are individual persons potentially able to be convicted of a misdemeanor under the APSA?

**Answer:** Yes. A person who knowingly violates HSC Section 25270.4.5, 25270.6, or 25270.8 after reasonable notice of the violation is potentially able to be convicted of a misdemeanor. Other applicable criminal or civil penalties can be pursued.

**Question:** What is the statute of limitations for commencing civil enforcement actions involving APSA violations?

**Answer:** 5 years, per the California Code of Civil Procedure Section 338.1.

***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).***

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