

## Unified Program Newsletter – February 2024

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## CalEPA

### CERS

#### CERS Stale User Account Deletion

A California Environmental Reporting System (CERS) regulator or business user account that has been inactive for one or more years is considered a stale account. Stale accounts pose a security risk as each account offers a malicious actor opportunity to gain access to CERS. To comply with CalEPA’s Information Security policies, any CERS account with no login activity within one year will be disabled and removed. This includes first responder and other government account types.

CalEPA will be emailing users with no recent login activities to prompt a log-in. Please ensure users provided access to CERS who have not logged into CERS within the last year, log in before March 15, 2024, to prevent impacts to user access.

Unified Program Agencies (UPA) shall continue CERS access procedures remain in place per CCR, Title 27 as follows:

- Section 15180(e)(4), requiring established written procedures for providing HMRRP information to emergency response personnel and other appropriate government entities in accordance with HSC Section 25504(c); and

- Sections 15185(f) and 15100(b)(2)(B)(i)(c), requiring access to the information collected in CERS to be provided to local information management systems, and to agencies with shared responsibilities for protection of the public health and safety and the environment.

### **CalARP/HMBP Unit**

#### **Proposed Changes to Hazardous Materials Business Plan (HMBP) and California Accidental Release Prevention (CalARP) Regulations**

On January 25, 2024, CalEPA proposed changes to the HMBP and CalARP regulations by submitting a rulemaking package to the Office of Administrative Law (OAL) pursuant to California Code of Regulations, title 1, section 100. The changes are needed as a result of Assembly Bill 148 (Chapter 115, Statutes of 2021), which transferred the responsibility for the HMBP and CalARP program from the California Governor's Office of Emergency Services (Cal OES) to CalEPA.

As further articulated in the Explanatory Statement (see link to the document below), CalEPA proposed to amend and relocate portions of California Code of Regulations, title 19, division 2, chapters 4 and 4.5 into a new division. CalEPA also proposed, among other things, to revise cross-references and add and delete definitions. While the changes to California Code of Regulations, title 19 are numerous, it is CalEPA's position that they will not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element.

The following documents were submitted to OAL for review and approval:

- [Explanatory Statement](https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/Explanatory-Statement-Final.pdf)  
(<https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/Explanatory-Statement-Final.pdf>)
- [Form 400 attachment \(sections affected\)](https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/Form-400-Attachment.pdf)  
(<https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/Form-400-Attachment.pdf>)
- [Proposed Regulatory Text \(underline/strikeout version\) – HMBP](https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/19-CCR-Div-5-Ch-1-Underline_Strikeout.pdf)  
([https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/19-CCR-Div-5-Ch-1-Underline\\_Strikeout.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/19-CCR-Div-5-Ch-1-Underline_Strikeout.pdf))
- [Proposed Regulatory Text \(underline/strikeout version\) – CalARP](https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/19-CCR-Div-5-Ch-2-Underline_Strikeout.pdf)  
([https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/19-CCR-Div-5-Ch-2-Underline\\_Strikeout.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2024/01/19-CCR-Div-5-Ch-2-Underline_Strikeout.pdf))

OAL has 30 days from the date of submission to determine whether the submission is a change without regulatory effect. After OAL has completed its review of the submission, OAL will send a written notification of the determination to CalEPA. If OAL determines that the submitted change is a change without regulatory effect, OAL will file the

changes with the Secretary of State and have it published in the California Code of Regulations.

If the submission is approved by OAL, CalEPA will work closely with Unified Program Agencies to implement the new regulatory changes.

If you have any questions or concerns, please contact Elizabeth Brega at [Elizabeth.Brega@calepa.ca.gov](mailto:Elizabeth.Brega@calepa.ca.gov).

### **New Personnel**

CalEPA is excited to announce that we have three new staff that will be supporting the HMBP and CalARP programs as well helping to support inspection and enforcement program development and implementation. Please join us in welcoming Ammaad Akhtar (Hazardous Substances Engineer), Alexa Kostrikin (Environmental Scientist), and Andrea Moron-Solano (Environmental Scientist).

### **DTSC**

#### **New Certified Unified Program Agency (CUPA) Training and Assistance Unit at DTSC!**

We are pleased to announce the CUPA Training and Assistance Unit (Training Unit) is now fully staffed within the DTSC CUPA Support Branch (Branch). The Training Unit complements and supports the work of the existing CUPA Evaluation Unit. The Evaluation Unit is the home to our CUPA evaluators and inspectors under the direction of Dr. Ryan Miya. Many CUPAs are already familiar with Ryan and his team (Mia Goings, Pheleep Sidhom, and Brennan Ko-Madden).

The mission of the Training Unit is to foster collaboration and knowledge-sharing and provide practical training and assistance to the CUPAs and other agencies. We aim to develop a comprehensive hazardous waste training curriculum with in-person and virtual courses, CUPA-specific technical assistance, and support in hazardous waste management. Through our efforts, our goal is to establish and maintain strong working relationships with the 81 CUPAs while promoting collaboration and driving positive outcomes for the communities we all serve.

#### **CUPA Training Unit Staff**

Julie Pettijohn, MPH, CIH, Branch Manager - CUPA Support Branch. Julie is an experienced environmental health and safety professional with over 30 years of experience in both the public and private sectors.

Christopher Thomas, M.Sc., Unit Supervisor. Christopher is an experienced professional with a diverse background, including Lecturer, Research Scientist, Facility Director, and Paramedic Instructor.

Elizabeth Chung, MS., Sr. Environmental Scientist. Elizabeth has experience formerly working as a Project Manager for DTSC's Cleanup Program and as an Industrial Hygienist, Researcher, and Lecturer.

Amineh Aghabali, Ph.D, Sr. Environmental Scientist. Dr. Aghabali holds a Ph.D. in Chemistry from UC Davis. She has a diverse background in the public and private sectors as a Lab Safety Officer, Chemistry Lab Manager, Researcher, and Lecturer.

Marcus Powell-Ford, Environmental Scientist. Marcus is currently completing his master's degree in biology at California State University, East Bay. He was a graduate teaching associate and research scientist in his previous position.

We are looking forward to working with all of you!

Don't hesitate to email us with any questions and comments at [DTSC\\_CUPATrainers@dtsc.ca.gov](mailto:DTSC_CUPATrainers@dtsc.ca.gov).

## **Cal FIRE OSFM**

### **Aboveground Petroleum Storage Act (APSA) Tank Facility Statement**

**Question:** When is the tank facility statement required to be submitted to CERS?

**Answer:** On or before January 1st, annually.

**Question:** Is the tank facility statement required to be submitted to CERS if a tank facility has already submitted a **complete** Hazardous Materials Business Plan (HMBP)?

**Answer:** No. However, to indicate your tank facility has submitted a **complete** HMBP in lieu of the tank facility statement as allowed under Health and Safety Code, Section 25270.6(a)(2), your tank facility should complete the 'Aboveground Petroleum Storage Act Documentation' by selecting 'Provided Elsewhere in CERS', choose 'Hazardous Materials Inventory', and then click on the 'Save' button.

Your tank facility may download the Tank Facility Statement form under the Resources section at <https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act>.

More information on APSA CERS submittals may be found on the following OSFM websites:

- Aboveground Petroleum Storage Tank Facility Statement Reporting Requirements  
<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/aboveground-petroleum-storage-tank-facility-statement-reporting-requirements>

- Is My Facility Regulated Under APSA?  
<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/is-my-facility-regulated-under-the-aboveground-petroleum-storage-act>
- Preparing an APSA Submittal in CERS  
<https://osfm.fire.ca.gov/what-we-do/pipeline-safety-and-cupa/certified-unified-program-agency/aboveground-petroleum-storage-act/preparing-an-aboveground-petroleum-storage-act>

## Secondary Containment

**Question:** What criteria can be used to verify whether an APSA tank facility meets the ‘sufficient freeboard to contain precipitation’ for secondary containment requirements?

**Answer:** Although the Federal Spill Prevention, Control, and Countermeasure (SPCC) requires a facility to ‘provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation,’ the rule does not specifically define the term ‘sufficient freeboard,’ nor does it describe how to calculate this volume.

Some plan preparers use the 25-year 24-hour rainfall events to determine the appropriate freeboard capacity, while others use a ‘110 percent of storage tank capacity’ rule of thumb. However, the Federal SPCC rule does not set any standard as a requirement for freeboard capacity. The certifying professional engineer (PE) (or owner/operator of qualified facilities) determines what volume constitutes sufficient freeboard for precipitation for secondary containment.

For more information on sufficient freeboard, refer to the U.S. Environmental Protection Agency (EPA) *SPCC Guidance for Regional Inspectors*, Chapter 4, Sections 4.3.2 and 4.3.3. The *SPCC Guidance for Regional Inspectors* is available on the US EPA website at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-guidance-regional-inspectors>.

Although not required under the Federal SPCC rule, it is recommended that the facility owner or operator maintain the secondary containment calculations at the facility for reference.

**Note:** One source of data for the 25-year, 24-hour rainfall event may be the National Oceanic and Atmospheric Administration (NOAA) National Weather Service at <https://hdsc.nws.noaa.gov/hdsc/pfds/index.html>.

**Question:** What criteria can be used to evaluate if an APSA tank facility’s secondary containment is ‘sufficiently impervious?’

**Answer:** The UPA may determine whether the facility’s secondary containment is sufficiently impervious based on a review of the SPCC Plan, inspection reports, maintenance records, and an observation of site conditions.

The Federal SPCC rule does not specify permeability or retention time performance criteria. Containment structures can be considered sufficiently impervious if they allow for cleanup to occur in time to prevent a discharge to navigable waters or adjoining shorelines.

For more information on sufficiently impervious secondary containment requirements, refer to the *SPCC Guidance for Regional Inspectors*, Chapter 4, Section 4.4.2.

***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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