

## Unified Program Newsletter – April 2024

### Contents

<b><u>CalARP/HMBP</u></b> .....	<b>1</b>
Changes to the Hazardous Materials Business Plan (HMBP) and California Accidental Release Prevention (CalARP) Title 19 Regulations .....	1
<b><u>State Water Board</u></b> .....	<b>2</b>
Monitoring Requirements for Product Piping and Secondary Containment .....	2
Emergency Tank Systems.....	3
UST Cleanup Fund Extension .....	3
Health and Safety Code and UST Regulation .....	4
Overfill Prevention Equipment Inspection Reminder .....	4
26th Annual CUPA Conference- UST Leak Prevention Presentations.....	5
California Code of Regulations, Chapter 16 Rewrite .....	5
Overview of the Leak Prevention Program .....	5
Inspection and Enforcement of Single-walled USTs .....	5
The CUPA Performance Evaluation and Assessment Process .....	5
<b><u>DTSC</u></b> .....	<b>5</b>
Newly Formed DTSC CUPA Training and Assistance Unit.....	5
Hazardous Waste Tracking System (HWTS) News Webpage .....	6
Telephone Operation Hours .....	6
HWTS and RCRAInfo Regulatory Agency User Accounts Cleanup Update.....	6
Generator Improvements Rule (GIR).....	6

### **CalARP/HMBP**

#### **Changes to the Hazardous Materials Business Plan (HMBP) and California Accidental Release Prevention (CalARP) Title 19 Regulations**

On March 6, 2024, the Office of Administrative Law (OAL) approved a rulemaking package that was submitted by CalEPA pursuant to California Code of Regulations, title 1, section 100. This rulemaking package was filed with the Secretary of State on March 6, 2024. All updates to Title 19 are effective as of March 6, 2024.

The changes reflected in the rulemaking were needed as a result of Assembly Bill 148 (Chapter 115, Statutes of 2021), which transferred the responsibility for the HMBP and CalARP programs from the California Governor’s Office of Emergency Services (Cal OES) to CalEPA.

CalEPA amended and relocated portions of California Code of Regulations, title 19, division 2, chapters 4 and 4.5 into a new division 5. CalEPA has also revised cross-

references and added and deleted definitions. These updates do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element.

The documents below identify the changes to Title 19 that were approved by OAL.

- [Final Regulatory Text \(underline/strikeout version\) – HMBP](#)
- [Final Regulatory Text \(underline/strikeout version\) – CalARP](#)

CalEPA has also created a “regulatory crosswalk” which outlines the numbering of Title 19 prior to and after the amendments became effective. [Please see Guidance Document 24-01](#) for the regulatory crosswalk.

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

## **State Water Board**

### **Monitoring Requirements for Product Piping and Secondary Containment**

The State Water Resources Control Board (State Water Board) is seeing numerous occurrences where facilities with underground storage tanks (USTs) installed before July 1, 2004, are being supplemented with additional newly installed USTs. State Water Board staff are fielding questions on which shared components, including sumps and under dispenser containment (UDC), require vacuum, pressure, or hydrostatic pressure (VPH) monitoring and enhanced leak detection (ELD) testing.

In the proposed California Code of Regulations, title 23, division 3, chapter 16 (UST Regulations) rewrite, secondarily contained USTs will be identified as Type I (installed before June 30, 2003), Type II (installed between July 1, 2003, and June 30, 2004) and Type III (installed after July 1, 2004). All Type III USTs must be VPH monitored, including the tank, product piping, buried vent, vapor recovery, fill pipe, and associated secondary containment, and an ELD test must be performed before the system becomes operational. Type III UST system sumps or UDCs that are shared with Type I or II UST systems must be VPH monitored as the sump or UDC is the secondary containment for the Type III system. However, Type I and II components connected to the shared sumps or UDCs, including vent, vapor recovery, fill pipe, and product piping are not required to be VPH monitored or perform ELD testing if the Type I and II product piping is not connected to the Type III UST system.

For additional information regarding the monitoring requirements of piping and secondary containment, contact:

Jenna Hartman at (916) 327-8563 or [Jenna.Hartman@waterboards.ca.gov](mailto:Jenna.Hartman@waterboards.ca.gov).

## **Emergency Tank Systems**

Effective January 1, 2024, Assembly Bill (AB) 1716 amended the Health and Safety Code, chapter 6.7 (H&SC 6.7) provisions of the Emergency Generator Tank Systems to expand the definition to “emergency tank system” that stores diesel or kerosene solely for use by one or more of the following emergency stationary devices: 1) an emergency generator that provides power supply in the event of a commercial power failure or disruption; 2) a fire suppression system used to extinguish, control, or prevent spreading of fires; and 3) a steam generation pressure tank.

State Water Board staff have received questions regarding the construction and monitoring requirements for unburied piping connected to emergency tank systems. To clarify, unburied product piping connected to an emergency tank system does not require continuous monitoring if the owner or operator conducts a visual inspection of the piping, no less than monthly, and maintains a log of inspection results per H&SC 6.7 section 25281.5(b)(3). To meet this exclusion, the unburied product piping must be connected to an emergency tank system that is solely used for emergencies, in accordance with H&SC 6.7 section 25281.5(c). If the unburied product piping meets the exclusion requirements above, the unburied piping is not required to meet the construction, monitoring, and testing requirements of UST Regulations, Article 3.

Alternatively, if a UST supplies one or more stationary devices that is not solely used for emergencies, such as a non-emergency boiler, the UST would not qualify as an emergency tank system and would not meet the unburied piping exclusion. UST systems that are connected to non-emergency stationary devices must meet all construction, monitoring, and testing requirements of UST Regulations, Article 3, including continuous monitoring and utilizing a line leak detector that restricts or shuts off flow.

For additional information regarding emergency tank systems, contact:  
Jenna Hartman at (916) 327-8563 or [Jenna.Hartman@waterboards.ca.gov](mailto:Jenna.Hartman@waterboards.ca.gov).

## **UST Cleanup Fund Extension**

Effective January 1, 2024, AB 1115 extends the Cleanup Fund and companion programs, including Replacing, Removing or Upgrading (RUST) grants and loans, through January 1, 2035. UST owners and operators will also be able to use the UST Cleanup Fund as a financial responsibility mechanism until December 31, 2034.

On November 17, 2023, the State Water Board distributed a [letter to the Unified Program Agencies \(UPAs\) and UST community](https://www.waterboards.ca.gov/ust/docs/2023/ust-statutory-provisions-ab-1716-and-ab-1115.pdf) (<https://www.waterboards.ca.gov/ust/docs/2023/ust-statutory-provisions-ab-1716-and-ab-1115.pdf>) that outlines the amended provisions and provides a link to the complete text of AB 1115. Additionally, the amended version of [H&SC 6.7](#), effective January 1, 2024, is available on the State Water Board website ([https://www.waterboards.ca.gov/water\\_issues/programs/ust/regulatory/docs/final-hsc-2024-access.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/regulatory/docs/final-hsc-2024-access.pdf)).

For more information regarding AB 1115, contact:

Jenna Hartman at (916) 327-8563 or [Jenna.Hartman@waterboards.ca.gov](mailto:Jenna.Hartman@waterboards.ca.gov).

### **Health and Safety Code and UST Regulation**

Amendments to H&SC 6.7 can create inconsistencies with current UST Regulations. When amendments are made to H&SC 6.7, it is not always feasible to immediately prepare a UST rulemaking to address the amendments in UST Regulations. The State Water Board is preparing a UST rulemaking to be noticed later this year that will address recent code amendments.

During these periods where H&SC 6.7 and UST Regulations are unaligned, UPAs should defer to H&SC 6.7. For example, H&SC 6.7 section 25285(b) was amended limiting the conditions preventing the issuance of the UST Operating Permits exclusively to when a red tag is affixed, when the facility is subject to an enforcement action, or if the UST owner or operator has not paid their fee and surcharge. This amendment to H&SC 6.7 will require modifications to the UST Regulations, section 2712 permit conditions. The proposed UST Regulations will maintain the requirements found in the current permit conditions; however, issuance or renewal of UST Operating Permits is no longer linked to compliance with these requirements.

For additional information regarding this issue, contact:

Kaitlin Cottrell at (916) 319-0742 or [Kaitlin.Cottrell@waterboards.ca.gov](mailto:Kaitlin.Cottrell@waterboards.ca.gov).

### **Overfill Prevention Equipment Inspection Reminder**

Overfill prevention equipment (OPE) inspections are required upon installation, within 30 days of repair, and every 36 months beginning October 1, 2018. Additionally, USTs installed before October 1, 2018, were required to conduct the initial OPE inspections by October 13, 2018.

Tests and inspections are required to be completed any time before or during the month the testing or inspection is required, in accordance with UST Regulations, section 2620(e). For OPE inspections completed by October 13, 2018, the first reinspection due date was on or before October 31, 2021. The next cycle of these OPE inspections must be completed by October 31, 2024.

A UST owner or operator may change the due date of the OPE inspection by performing the inspection early, but an inspection conducted late will not change the due date. OPE inspections completed late after the October 31, 2021, deadline is still due prior to October 31, 2024, to remain in compliance.

State Water Board staff encourage UPAs to remind UST owners or operators to complete the OPE inspection before or during the month the inspection is due.

For additional information regarding OPE inspections, contact:

Jenna Hartman at (916) 327-8563 or [Jenna.Hartman@waterboards.ca.gov](mailto:Jenna.Hartman@waterboards.ca.gov) or Kaitlin Cottrell at (916) 319-0742 or [Kaitlin.Cottrell@waterboards.ca.gov](mailto:Kaitlin.Cottrell@waterboards.ca.gov).

## **26th Annual CUPA Conference- UST Leak Prevention Presentations**

The 26th CUPA Conference was held February 26-29, 2024, in Burlingame, California. State Water Board staff appreciated the opportunity to discuss technical and administrative UST questions with UPAs, stakeholders, and industry. Below are brief summaries of UST Leak Prevention presentations.

### **California Code of Regulations, Chapter 16 Rewrite**

Austin Lemire-Baeten, Greg Breshears, Dayna Cordano, and Steven Mullery covered proposed changes to UST Regulations ahead of the formal rulemaking period beginning this fall. The presentation discussed changes to the proposed UST Regulations organization, definitions, certifications for UST personnel, construction, monitoring, and testing requirements for USTs, and closure and cleanup procedures. Additionally, the presentation covered changes to UST forms and upcoming milestones, including the expected January 1, 2026, effective date of the draft UST Regulations.

### **Overview of the Leak Prevention Program**

Tom Henderson provided the yearly update of the State Water Board's UST Program. He covered program statistics, single-walled tanks, the UST Regulations rewrite, and UPA evaluation updates. Tom also discussed AB 1716 and 1115, temporary closure, abandoned USTs, and upcoming enforcement guidance for UPA evaluations and single-walled UST systems.

### **Inspection and Enforcement of Single-walled USTs**

Jenna Hartman and Tom Henderson presented the unique single-walled UST inspection requirements and enforcement options ahead of the December 31, 2025, deadline. The presentation identified commonly missed violations during CUPA compliance inspections and a timeline of enforcement options now through January 1, 2026.

### **The CUPA Performance Evaluation and Assessment Process**

Kaitlin Cottrell and other state agency evaluators presented on the CUPA Performance Evaluation Process. The presentation covered the State Water Board's UST program assessment, including changes made to the Supplemental Questionnaire, single-walled UST systems focused evaluations, and improvements made to the UST evaluation process. Additionally, the presentation discussed the importance of California Environmental Reporting System (CERS) data cleanup ahead of the CERS NextGen data migration.

## **DTSC**

### **Newly Formed DTSC CUPA Training and Assistance Unit**

We are pleased to inform you that the CUPA Training and Assistance Unit (CUPA TA Unit) is currently in the Training Needs Assessment phase of our work. This crucial stage involves the collection of training topics from the CUPAs and a thorough review of

the CUPAs triennial performance evaluation Final Summary of Findings to generate potential training topics.

On March 13, 2024, the CUPA TA Unit sent an email to all CUPAs, requesting submittal of suggested training topics that would greatly benefit their respective agencies.

We extend our sincere gratitude to the 13 CUPAs who have already responded to our email. We encourage all CUPAs to continue providing us with the training topics they would like to see the CUPA TA Unit develop and provide in the near future. Please submit suggested trainings topics by April 19, 2024, to [DTSC\\_CUPATrainers@dtsc.ca.gov](mailto:DTSC_CUPATrainers@dtsc.ca.gov). Your input is invaluable to us, and CUPA TA Unit will send a reminder email to all CUPAs prior to the due date.

Once all the training topics have been compiled, CUPAs will have the opportunity to prioritize them according to your organization's needs. CUPA TA Unit will send a questionnaire, in Fall 2024, for the CUPAs to prioritize potential training topics.

We welcome any training-related meeting requests, brainstorming sessions, comments, feedback, or questions that you may have. Please do not hesitate to reach out to us via email at [DTSC\\_CUPATrainers@dtsc.ca.gov](mailto:DTSC_CUPATrainers@dtsc.ca.gov) or by phone at (833) 862-1637.

Thank you for your continued support and collaboration.  
DTSC CUPA Training and Assistance Unit.

### **Hazardous Waste Tracking System (HWTS) News Webpage**

Learn about the latest HWTS news and information by visiting the newly created HWTS News webpage at <https://dtsc.ca.gov/hwts-news/>.

### **Telephone Operation Hours**

Effective April 15, 2024, the telephone support hours for the hazardous waste ID number general assistance line (1-800-618-6942) and the electronic Verification Questionnaire System assistance line (1-877-454-4012) hours will be changing from Monday through Friday from 9:00 AM to 3:00 PM to 9:00 AM to 2:00 PM Pacific Time.

### **HWTS and RCRAInfo Regulatory Agency User Accounts Cleanup Update**

Thank you to those who participated in DTSC's Office of Environmental Information Management's Business Operations Unit User Accounts Cleanup during December 2023. Over 150 HWTS and RCRAInfo regulatory agency users were identified as no longer needing access and their accounts were deactivated. Thank you for helping us keep the HWTS and RCRAInfo System secure. Let's continue to be vigilant and make user account cleanups an ongoing effort.

### **Generator Improvements Rule (GIR)**

DTSC submitted the generator improvements rule (GIR) final rulemaking package to the Office of Administrative on March 22, 2024. The Office of Administrative has 30 days to review and approve the package. If approved, the GIR will become effective in

California starting July 1, 2024. The GIR rulemaking package proposes to adopt federal hazardous waste requirements that are equivalent to or more stringent than California's existing hazardous waste program. The rulemaking also proposes to reorganize several sections, and make other conforming updates, to align with the federal regulatory structure.

The DTSC emergency regulation for the conditional exemption for undeployed airbag waste was approved by the Office of Administrative and became effective on March 15, 2024. The regulation is intended to facilitate the expedited removal of defective undeployed airbags from vehicles and reduce the safety risk posed by their long-term storage. The emergency regulation remains in effect for 180 days. However, DTSC intends to conduct rulemaking to permanently adopt the regulation. The rulemaking package is on DTSC's website at <https://dtsc.ca.gov/airbag-waste-management/>.

***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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