

## Citations for failure to report Unified Program Information

### How should Unified program Agencies (UPAs) cite violations for failure to report Unified Program Information?

**Answer:** UPAs should be citing “Reporting” violations based on each applicable program element requirement for reporting information. In addition, UPAs should be using the penalties established within each program elements’ governing statute and regulation. Reporting violations are not electronic reporting or CERS reporting related violations, but rather violations of the requirements established for each program element to report information. Electronic reporting is the required method for reporting Unified Program information, not the impetus for reporting such information.

Attachment 1 contains the reporting violations that are currently listed in the Unified Program Violation Library. Exception: the Violation Library does not include the HMBP program changes codified in Article 1 of the Health and Safety Code (HSC) that became effective January 1, 2015 as a result of the passage of Senate Bill 1261 (Chapter 715, September 28, 2014).

In general, penalties for the various program elements are found in state law as follows:

<b>HMBP</b>	<b>HSC, Sections 25515 and 25515.2</b>
<b>UST</b>	<b>HSC, Section 25299</b>
<b>HWG</b>	<b>HSC, Sections 25188 and 25190</b>
<b>CalARP</b>	<b>HSC, Section 25540</b>

Attachment 2 contains the HSC sections cited above.

NOTE: Although all program elements have reporting violations and penalties established for such violations, the regulations adopted for the Hazardous Waste Generator, Hazardous Materials Business Plan, and Underground Storage Tank programs currently are not consistent with the electronic reporting requirement contained in HSC, Chapter 6.11 and in the Title 27 regulations. The regulations have not been updated to recognize reporting information electronically. Titles 19, 22, and 23 refer to the Unified Program Consolidated Form, which no longer exists. Regardless of these outdated and conflicting regulations, the governing statutes are the controlling law.

## Attachment 1

Business Plan Program	1010002	Failure to complete and/or electronically submit a business plan when storing/handling a hazardous material at or above reportable quantities.	HSC 6.95 25505, 25508(a)(1), 25508(d)
Business Plan Program	1010003	Failure to complete and electronically submit the Business Activities Page and/or Business Owner Operator Identification Page.	HSC 6.95 25508(a)(1)
Business Plan Program	1010004	Failure to complete and electronically submit hazardous material inventory information for all reportable hazardous materials on site at or above reportable quantities.	HSC 6.95 25505(a)(1), 25506, 25508(a)(1)
Business Plan Program	1010005	Failure to complete and electronically submit a site map with all required content.	HSC 6.95 25505(a)(2), 25508(a)(1)
Business Plan Program	1010006	Failure to electronically update business plan within 30 days of any one of the following events:  -A 100 percent or more increase in the quantity of a previously disclosed material. -Any handling of a previously undisclosed hazardous materials at or above reportable quantities. -A change of business address, business ownership, or business name.	HSC 6.95 25508.1(a)-(e)
Business Plan Program	1010007	Failure to electronically update the business plan within 30 days of a substantial change.	HSC 6.95 25508.1(f)
Business Plan Program	1010008	Failure to annually review and electronically certify that the business plan is complete, accurate, and up-to-date.	HSC 6.95 25508(c), 25508.2
Business Plan Program	1010009	Failure to review, revise, and recertify the business plan at least once every three years.	HSC 6.95 25508(b)
Business Plan Program	1010010	Failure to establish and electronically submit an adequate emergency response plan and procedures for a release or threatened release of a hazardous material.	HSC 6.95 25505(a)(3), 25508(a)(1)
Business Plan Program	1010014	Failure to electronically submit the emergency response plan and procedures when not meeting the agricultural handler exemption requirements.	HSC 6.95 25507.1, 25508(a)(1)
Business Plan Program	1010015	Failure to electronically submit the training program in safety procedures when not meeting the agricultural handler exemption requirements.	HSC 6.95 25507.1, 25508(a)(1)
Business Plan Program	1010016	Failure to establish and electronically submit a business plan when not meeting the remote unstaffed facility exemption requirements.	HSC 6.95 25505, 25506, 25507, 25508(a)(1)
Business Plan Program	1020001	Failure to establish and electronically submit an adequate training program in safety procedures in the event of a release or threatened release of a hazardous material.	HSC 6.95 25505(a)(4), 25508(a)(1)

Tiered Permitting Program	3210002	Failure of the owner or operator of a FTU that treats hazardous waste to submit, in person or by certified mail with return receipt requested, the Onsite Hazardous Waste Treatment Notification-Facility page, the Business Activities Page, and the Business Owner/Operator Page of the Unified Program Consolidated Form (x/99)), an alternative version or a computer generated facsimile to the CUPA or authorized agency before sixty (60) days prior to beginning the first treatment of waste pursuant to a permit-by-rule.	22 CCR 45 67450.2(b)(2)
Tiered Permitting Program	3210003	Failure of the generator to submit, at least 60 days before commencing treatment of hazardous waste to submit a notification, in person or by certified mail, with return receipt requested.	HSC 6.5 25200.3(e)
Tiered Permitting Program	3210004	Failure of the generator to submit, at least 60 days before commencing treatment of hazardous waste, notification, in person or by certified mail, with return receipt requested.	HSC 6.5 25201.5(d)(7)
Tiered Permitting Program	3210007	Failure to submit to the CUPA and the Department an amended notification at least 30 days after a change has occurred.	22 CCR 45 67450.3(c)(2)
Tiered Permitting Program	3210008	Failure to submit to the CUPA and the Department an amended notification at least 30 days after a change has occurred.	HSC 6.5 25200.3(k)
Tiered Permitting Program	3210009	Failure to submit to the CUPA and the Department an amended notification at least 30 days after a change has occurred.	HSC 6.5 25201.5(i)
Tiered Permitting Program	3210029	Failure to submit financial assurance form upon a change in the closure plan or when there is an increase in the closure costs.	22 CCR 45 67450.13(a)(3), 67450.13(a)(4)
Tiered Permitting Program	3210030	Failure to submit financial assurance form upon a change in the closure plan or when there is an increase in the closure costs.	22 CCR 45 67450.13(a)(3), 67450.13(a)(4)
Tiered Permitting Program	3210039	Failure of the generator to prepare, maintain, and submit to CUPA an annual report containing the following information:(A) The serial number(s) of the FTU(s) involved in treatment; (B) The physical and mailing address of the business entity which owns or operates the FTU(s); (C) The name, title and telephone number of each FTU contact person; (D) The name and address or legal description of the facility; (E) The facility identification number; (F) The number of days each FTU was operated; (G) The quantity of hazardous waste(s) treated by each FTU; (H) The composition and hazardous characteristics of the influent hazardous waste(s); (I) The treatment method(s) used for each hazardous waste treated by each FTU; (J) The quantity, composition and hazardous characteristic(s) of any treatment effluent or residual discharged from each FTU to a POTW, if applicable; and (K) The quantity, composition, hazardous characteristic(s) and disposition of any FTU treatment effluent or residual that was not discharged to a POTW, if applicable.	22 CCR 45 67450.2(c)(10)

UST Program	2010005	Failure to submit enhanced leak detection testing results to the State Water Board and the CUPA within 60 days of completion of the test.	23 CCR 16 2644.1(a)(5)
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UST Program	2010007	Failure to submit and maintain complete and current Certification of Financial Responsibility or other mechanism of financial assurance.	23 CCR 16 2711; 23 CCR 18 2808.1, 2809- 2809.2; HSC 6.7 25292.2; HSC 6.75 25299.30- 25299.34
UST Program	2010009	Failure to submit a copy of the secondary containment test results to the CUPA within 30 days after the test.	23 CCR 16 2637(e)
UST Program	2010010	Failure to submit an complete and accurate application for a permit to operate an underground storage tank, or for renewal of the permit.	23 CCR 16 2711; HSC 6.7 25286(a)
UST Program	2030007	Failure to submit and maintain documentation regarding positive statement of compatibility for UST system components.	23 CCR 16 2631(j)
UST Program	2030011	Failure to submit statement of UST compliance and/or Designated Operator certification.	23 CCR 16 2715(a)
UST Program	2030037	Failure to submit, maintain, or implement an owner/operator written agreement.	23 CCR 16 2620(b); HSC 6.7 25284(a)(3)
UST Program	2030041	Failure to submit, obtain approval, or maintain a complete/accurate plot plan.	23 CCR 16 2632(d)(1)(C), 2711(a)(8)
UST Program	2030046	Failure to submit, obtain approval, or maintain a complete/accurate response plan.	23 CCR 16 2632, 2634(e), 2641(h), 2712(i)
UST Program	2030056	Failure to submit the annual SIR Report to the CUPA.	23 CCR 16 2646.1(j)
CalARP Program	5010005	Failure to submit an RMP which includes all requirements described in Section 2745.3 through 2745.5 and 2745.8 through 2745.9.	19 CCR 4.5 2735.5(b)(1), 2735.5(d), 2745.1(a)
CalARP Program	5010007	Failure to submit an RMP which includes all requirements described in Section 2745.3 through 2745.9.	19 CCR 4.5 2735.5(b)(1), 2745.1(a)
CalARP Program	5010012	Failure to complete the registration information required in 2740.1(d) and submit it with the Risk Management Plan to the United States Environmental Protection Agency, with a copy provided to the Administering Agency.	19 CCR 4.5 2740.1(a)
CalARP Program	5010014	Failure to submit a registration to the Administering Agency prior to submittal of the Risk Management Plan upon request.	19 CCR 4.5 2740.1(c)

CalARP Program	5010016	<p>Failure to submit the RMP information required by the USEPA to the USEPA and Administering Agency, per the schedule below:</p> <p>1. Three years after the date on which a regulated substance is first listed under Section 68.130, Part 68, Title 40 of CFR; or</p> <p>2. The date on which a regulated substance is first present in a process, above the threshold quantity, as listed on Section 2770.5 Table 1 or 2.</p>	19 CCR 4.5 2745.1(b)(2), 2745.1(b)(3)
CalARP Program	5010017	Failure to submit a copy of the USEPA required RMP information according to the time frame set forth in 2745.1(b) to the Administering Agency.	19 CCR 4.5 2745.1(c)
CalARP Program	5010018	Failure of an existing stationary source to submit a Risk Management Plan to the Administering Agency after the owner or operator has received a notice from the Administering Agency requesting submission of a Risk Management Plan. The Administering Agency shall not require submission of the Risk Management Plan earlier the 12 months or later than 3 years after the notice has been issued to the owner or operator.	19 CCR 4.5 2745.1(d)
CalARP Program	5010019	Failure of a new or modified stationary source to submit a Risk Management Plan to the Administering Agency prior to the date in which a regulated substance is first present in a process above the listed threshold quantity.	19 CCR 4.5 2745.1(e)
CalARP Program	5010023	Failure to submit in the Risk Management Plan the certification statement provided in Section 2735.5(d)(4)	19 CCR 4.5 2745.9(a)
CalARP Program	5010024	Failure to submit in the Risk Management Plan a single certification that, to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete.	19 CCR 4.5 2745.9(b)
CalARP Program	5010025	Failure to revise, update, and submit the Risk Management Plan to the United States Environmental Protection Agency and the Administering Agency as follows:1. At least once every five years from the date of its initial submission or most recent update required by section 2745.10(a)(2) through (7);2. No later than three years after a newly regulated substance is first listed by the United States Environmental Protection Agency;3. No later than the date on which on which a new regulated substance is first present in an already covered process above a threshold quantity;4. No later than the date on which a regulated substance is first present above a threshold quantity in a new process;5. Within six months of a change that requires a revised process hazard analysis or hazard review.6. Within six months of a change that requires a revised offsite consequence analysis as provided in section 2750.7;7. Within six months of a change that alters the program level that applied to any covered process.	19 CCR 4.5 2745.10(a), 2745.10(b)

## Attachment 2

### HMBP

#### 25515.

(a) A business that violates Sections 25504 to 25508.2, inclusive, or Section 25511, shall be civilly liable to the unified program agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) A business that knowingly violates Sections 25504 to 25508.2, inclusive, or Section 25510.1, after reasonable notice of the violation shall be civilly liable to the unified program agency in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

*(Repealed and added by Stats. 2013, Ch. 419, Sec. 3. Effective January 1, 2014.)*

#### 25515.2.

(a) Notwithstanding Section 25515, a business that violates this article is liable to a unified program agency for an administrative penalty not greater than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire or health or medical problem requiring toxicological, health, or medical consultation, the business shall also be assessed the full cost of the county, city, fire district, local EMS agency designated pursuant to Section 1797.200, or poison control center as defined by Section 1797.97, emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Notwithstanding Section 25515, a business that knowingly violates this article after reasonable notice of the violation is liable for an administrative penalty, not greater than five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) When a unified program agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of this article, the unified program agency shall utilize the administrative enforcement procedures, including the hearing procedures, specified in Sections 25404.1.1 and 25404.1.2.

*(Repealed and added by Stats. 2013, Ch. 419, Sec. 3. Effective January 1, 2014.)*

### UST

#### 25299.

(a) An operator of an underground tank system shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) for each underground storage tank for each day of violation for any of the following violations:

(1) Operating an underground tank system that has not been issued a permit, in violation of this chapter.

(2) Violation of an applicable requirement of the permit issued for the operation of the underground tank system.

(3) Failure to maintain records, as required by this chapter.

(4) Failure to report an unauthorized release, as required by Sections 25294 and 25295.

(5) Failure to properly close an underground tank system, as required by Section 25298.

(6) Violation of an applicable requirement of this chapter or any regulation adopted by the board pursuant to Section 25299.3.

(7) Failure to permit inspection or to perform a monitoring, testing, or reporting required pursuant to Section 25288 or 25289.

(8) Making a false statement, representation, or certification in an application, record, report, or other document submitted or required to be maintained pursuant to this chapter.

(9) Tampering with or otherwise disabling automatic leak detection devices or alarms.

(b) An owner of an underground tank system shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for each underground storage tank, for each day of violation, for any of the following violations:

(1) Failure to obtain a permit as specified by this chapter.

(2) Failure to repair or upgrade an underground tank system in accordance with this chapter.

(3) Abandonment or improper closure of an underground tank system subject to this chapter.

- (4) Violation of an applicable requirement of the permit issued for operation of the underground tank system.
- (5) Violation of an applicable requirement of this chapter or a regulation adopted by the board pursuant to Section 25299.3.
- (6) Failure to permit inspection or to perform a monitoring, testing, or reporting required pursuant to Section 25288 or 25289.
- (7) Making a false statement, representation, or certification in an application, record, report, or other document submitted or required to be maintained pursuant to this chapter.
- (c) A person who intentionally fails to notify the board, the regional board, or the local agency when required to do so by this chapter or who submits false information in a permit application, amendment, or renewal, pursuant to Section 25286, is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each underground storage tank for which notification is not given or false information is submitted.
- (d) (1) A person who violates a corrective action requirement established by, or issued pursuant to, Section 25296.10 is liable for a civil penalty of not more than ten thousand dollars (\$10,000) for each underground storage tank for each day of violation.
- (2) A civil penalty under this subdivision may be imposed in a civil action under this chapter, or may be administratively imposed by the board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 of Division 7 of the Water Code.
- (e) A person who violates Section 25292.3 is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each underground storage tank for each day of violation.
- (f) (1) A person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) or more than ten thousand dollars (\$10,000), by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.
- (2) A person who intentionally disables or tampers with an automatic leak detection system in a manner that would prevent the automatic leak detection system from detecting a leak or alerting the owner or operator of the leak, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) or more than ten thousand dollars (\$10,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.
- (g) In determining both the civil and criminal penalties imposed pursuant to this section, the board, a regional board, or the court, as the case may be, shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.
- (h) (1) A civil penalty or criminal fine imposed pursuant to this section for a separate violation shall be separate, and in addition to, any other civil penalty or criminal fine imposed pursuant to this section or any other provision of law, except that no civil penalty shall be recovered under subdivision (d) for violations for which a civil penalty is recovered pursuant to Section 13268 or 13350 of the Water Code. The penalty or fine shall be paid to the unified program agency, the participating agency, or the state, whichever is represented by the office of the city attorney, district attorney, or Attorney General bringing the action.

## **HWG**

### **25188.**

Any person subject to a schedule for compliance issued pursuant to Section 25187 who does not comply with that schedule shall be subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each day of noncompliance.

### **25190.**

Except as otherwise provided in Sections 25189.5, 25189.6, 25189.7, and 25191, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for up to six months in a county jail or by both that fine and imprisonment.

## **CalARP**

### **25540.**

(a) Any person or stationary source that violates this article shall be civilly or administratively liable to the unified program agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.