

## Citations for failure to report Unified Program Information

### How should Unified program Agencies (UPAs) cite violations for failure to report Unified Program Information? Updated 6/21/2016

**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.

Reporting violations are listed in the Administration/Documentation section of each Violation Program of the CERS Violation Library at <https://cersbusiness.calepa.ca.gov/public/violations/>.

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>

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 may not be consistent with the electronic reporting requirement contained in HSC, Chapter 6.11 and in the Title 27 regulations. The regulations may not have been updated to recognize reporting information electronically. Titles 19, 22, and 23 may still 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 Regardless of these outdated and conflicting regulations, the governing statutes are the controlling law.

## Statute Citations

### 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.