

Date of Hearing: March 25, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 1459 (Committee on Environmental Safety and Toxic Materials) – As Introduced February 21, 2025

SUBJECT: Hazardous waste: underground storage tanks

SUMMARY: Makes various technical changes to the six unified hazardous waste and hazardous materials management regulatory programs that are overseen by the Certified Unified Programs Agencies (CUPAs). Specifically, **this bill:**

- 1) Authorizes the consolidation of "small" satellite accumulation (of hazardous waste) containers to a single container, for the purpose of consolidation prior to shipment.
- 2) Deletes Health and Safety Code (HSC) § 25123.3(h)(1)(B) to match changes in a federal regulation implemented by the United States Environmental Protection Agency (U.S. EPA) under the Generator Improvement Rule.
- 3) Authorizes laboratory hazardous waste generated onsite to continue to be exempt from hazardous waste permitting requirements if specified conditions are met.
- 4) Updates the definition of underground storage tanks (USTs), such that dielectric fluid in closed loop mechanical systems is exempt from the definition of UST. This change conforms to federal regulation.
- 5) Makes technical and conforming changes.

EXISTING LAW:

- 1) Enacts the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, which was created to help communities plan for chemical emergencies. EPCRA requires industry to report on the storage, use, and releases of hazardous substances to federal, state, and local governments. It also requires state and local governments, and Indian tribes to use this information to prepare their community for potential risks. (42 United States Code § 11001, et seq.)
- 2) Defines "Certified Unified Program Agency" or "CUPA" as the agency certified by the Secretary of the California Environmental Protection Agency (CalEPA) to implement the unified program within a jurisdiction. (HSC § 25404(a)(1)(A))
- 3) Defines "Unified Program Agency" or "UPA" as the CUPA to implement or enforce a particular Unified Program element. UPAs have the responsibility and authority to implement and enforce the unified program requirements and implementing regulations. (HSC § 25404(a)(1)(C))
- 4) Requires the Secretary of CalEPA to adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, known as the unified program. (HSC § 25404(b))

- 5) Requires a business to establish and implement a Business Plan of a hazardous material if the business meets specified criteria. (HSC § 25507(a))
- 6) Specifies the conditions that a generator of hazardous waste, which generates and treats the hazardous waste onsite, must meet in order to treat this waste onsite without a hazardous waste permit. (HSC § 25200.3)
- 7) Defines "laboratory hazardous waste" and specifies the conditions that are needed to treat the laboratory waste onsite without obtaining a hazardous waste permit. (HSC § 25200.3.1)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: CUPA's meet routinely to discuss implementation of the six statewide programs they oversee and occasionally discover inconsistencies in interpretation of the law. In order to maintain a unified program, the CUPA's bring any potential inconsistencies to state regulators (CalEPA, the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (State Water Board)) and to the regulated community. AB 1459 reflects suggestions brought forward from the discussions with the CUPAs, state regulators, and the regulated community.

Certified Unified Program Agencies (CUPAs): CUPAs are local agencies certified by the Secretary of CalEPA to implement and enforce six "unified hazardous waste and hazardous materials management" regulatory programs (Unified Program). Currently, there are 81 CUPAs in California tasked with implementation and enforcement of the following:

- 1) Hazardous Materials Release Response Plans and Inventories (Business Plans);
- 2) California Accidental Release Prevention (CalARP) Program;
- 3) Underground Storage Tank Program (USTP);
- 4) Aboveground Petroleum Storage Act (APSA);
- 5) Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs; and,
- 6) California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements.

Hazardous Materials Business Plan (Business Plan) program: The Business Plan program was enacted in 1986 with the purpose of preventing or minimizing the damage to public health and safety and the environment that can be caused by a release or threatened release of hazardous materials. The Business Plan satisfies community right-to-know laws, mandated by the 1986 federal EPCRA. Community right-to-know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. Crucially, the Business Plan enables first responders to make informed decisions in the event of an emergency to protect public health, safety, and the environment.

California Accidental Release Prevention (CalARP) program: The goal of the CalARP program is to prevent accidental releases of substances that can cause serious harm to the public and the environment, to minimize the damage if releases do occur, and to satisfy community right-to-know laws. CalARP requires businesses that produce, handle, process, distribute, or store certain

chemicals over a threshold quantity to develop a Risk Management Program, prepare a Risk Management Plan (RMP), and submit the RMP to their CUPA. Regulated substances are those listed either on the federal list (40 Code of Federal Regulations § 68.130) or the state list (22 California Code of Regulations § 2770.5). An RMP is a detailed engineering analysis of the potential accidental factors present at a business and the mitigation measures that can be implemented to reduce this accident potential. The RMP contains safety information; a hazard review; operating procedures; training requirements; maintenance requirements; compliance audits; and, incident investigation procedures. The RMP must also consider proximity to sensitive populations such as children or seniors and external factors such as seismic activity.

Underground Storage Tank Program (UST Program): The statewide UST Program works to protect public health and safety and the environment from releases of petroleum and other hazardous substances from USTs. A UST is defined by law as "any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and is substantially or totally beneath the surface of the ground." CUPAs additionally enforce UST regulations within their jurisdiction.

Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs: Businesses must manage their hazardous waste from the point of generation until proper disposal or recycling. This is called "cradle-to-grave" liability, and is required by law. A part of this responsibility includes identifying what is and is not a hazardous waste, obtaining a hazardous waste identification number, labeling and storing the waste properly, and ensuring the waste is properly disposed or recycled.

Many types of businesses in California are hazardous waste generators. Hazardous waste is a waste with properties that make it potentially dangerous or harmful to human health or the environment. There are many wastes that are hazardous waste. Hazardous waste can be liquids, solids, or contained gases. They can be the by-products of manufacturing processes, discarded used materials, or discarded unused commercial products such as cleaning fluids (solvents) or pesticides.

Certain wastes can be managed under less rigorous management regulations, such as universal waste. These include batteries, fluorescent lamps, electronic waste, mercury thermostats, aerosol cans, solar panels/photovoltaic modules and more. It is important to know that California's universal waste requirements are generally more stringent than those requirements adopted by the (U.S. EPA).

The California Environmental Reporting System (CERS): CERS is a statewide online system that supports the electronic exchange of unified program information among businesses, CUPAs, and the U.S. EPA. Unified program information that must be submitted to CERS includes facility data regarding hazardous material regulatory activities (such as the Business Plan); hazardous waste generation; and inspection, compliance, and enforcement actions.

This bill: AB 1459, allows for the consolidation of "small" satellite accumulation (of hazardous waste) containers to a single container for the purpose of consolidation prior to shipment; deletes, section 25123.3(h)(1)(B) to match changes in federal regulation implemented by the US EPA under the Generator Improvement Rule; authorizes, laboratory hazardous waste generated onsite to continue to be exempt from hazardous waste permitting requirements if specified conditions are met; updates the definition of what tanks are exempted from the definition of

underground storage tank by adding dielectric fluid in closed loop mechanical systems (conforming to federal regulation); and, makes technical and conforming changes.

Related legislation:

- 1) AB 1716 (ESTM Committee, Chapter 207, Statutes of 2023). Makes various technical changes to the six unified hazardous waste and hazardous materials management regulatory programs that are overseen by the CUPAs.
- 2) AB 2059 (Carrillo, Chapter 278, Statutes of 2022). Requires specified suppliers of hazardous materials to maintain, for at least one year, records of sales and provisions of hazardous materials of specified quantities to a business in the state, and provide such records to a CUPA within five days of a request. Narrows the definition of retail establishment for purposes of hazardous material reporting and limits current exemptions of consumer products as specified from inclusion in a business plan for emergency response to a release or threatened release.
- 3) AB 1429 (Chen, Chapter 66, Statutes of 2019). Authorizes a business that handles hazardous materials to submit their Business Plan to CERS once every three years, instead of annually, if that business is not required to submit Tier II chemical inventory information under the federal EPCRA of 1986.
- 4) AB 1500 (Carrillo, 2019). Would have authorized a CUPA or a local health officer to temporarily suspend a facility permit, including the shutdown of a facility, if conditions at the facility pose an imminent or substantial endangerment to public health and safety. Clarifies the authority of a CUPA, subject to its jurisdiction, to fine or penalize a facility that is operating without a permit.
- 5) AB 1689 (ESTM Committee, Chapter 159, Statutes of 2017). Adds combustible metals and metal alloys to the list of materials a business must include in its hazardous materials business plan.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

Analysis Prepared by: Josh Tooker / E.S. & T.M. / (916) 319-3965