



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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Unified Program Newsletter July 2010

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California Environmental Protection Agency

Environmental Enforcement and Training Account

The following is an update on the Penal Code §14300 Environmental Enforcement and Training Account and its current status.

This account was created by CDAA sponsored legislation in 2002. Funding for the account comes from money designated for such use in state or federal court judgments in enforcement cases. These contributions are often referred to as Supplemental Environmental Projects or "SEPs". Private contributions may also be received. No general fund money is used in this program.

This fund is a source for additional funding for environmental training and enforcement and is statutorily mandated to be distributed according to the following:

- 25% to the Environmental Circuit Prosecutor Project.
- 25% to CDAA to provide enforcement training for environmental prosecutors, investigators and regulators.
- 25% (but no more than \$100,000) to POST for peace officer training on investigation of environmental crimes.
- 25% for grants (most of which go to the Circuit Prosecutor Project).

These grants provide support for the Circuit Prosecutors Project, a joint partnership of Cal/EPA, CDAA and the Department of Fish and Game, that provides environmental prosecutors to small counties that otherwise would not have such resources. This helps ensure that the defendant you convict today does not simply move to a smaller county tomorrow. This support for local prosecution efforts advances fair and uniform enforcement of environmental laws throughout the state.

The source of the funds are SEPs which to date come from DTSC, Circuit Prosecutors and Orange County. Recent annual distributions were:

- 2006: \$654,081
- 2007: \$503,562
- 2008: \$138,259
- 2009: \$305,262

To date for 2010 there is only **\$52,000**.

The annual distribution date is September. Please consider sending a SEP donation; visit link below for details:

Website: www.calepa.ca.gov/enforcement/grants

Contact: Jami Ferguson, California Environmental Protection Agency, (916) 322-2935; jferguson@calepa.ca.gov

Special Advisory Regarding VST Nozzles

The Air Resources Board (ARB), in cooperation with Vapor Systems Technologies Inc. (VST), has issued a Special Advisory concerning VST nozzles operating in California.

Damaged VST nozzles can unexpectedly cause gasoline spray upon activating the dispenser, prior to the nozzle being inserted into the vehicle fuel tank. ARB is working with CalFire and VST to resolve a problem in about 2,000 nozzles out of a population of 40,000 in use today. About 30 percent of all gasoline dispensing facilities in California is affected. On May 18, 2010, a service station operator informed ARB staff that a VST nozzle unexpectedly sprayed gasoline on a person. Surveillance video confirmed the incident. Subsequent ARB staff testing confirmed that VST nozzles, in certain instances, could unexpectedly cause gasoline spray. The root cause is a design defect manifested when a certain set of events occur. ARB and CalFire have issued advisories calling for daily VST nozzle checks by gasoline dispensing facilities service personnel. In addition, CalFire, with ARB assistance, is seeking concurrence from the Governor's Office to implement an immediate, interim mechanical solution to the problem. This involves removal of the nozzle hold-open clip by VST (the clip is required by State law). Long-term, nozzles retrofit and re-design is expected.

The California Fire Marshal requests the fire authority having jurisdiction assist ARB to identify and remove from service any nozzles that are found to be defective and thus pose a fire hazard. The local fire agencies' authority to remove defective nozzles from service is found in Health and Safety Code Section 41960.1(c).

Fire authorities finding defective nozzles are requested to contact:

Contact: Ranjit Bhullar, Air Resources Board, (916) 322-0223

Bulletin 0910-06: BOE Tank Number Collection

The purpose of the Bulletin is to establish the framework that Cal/EPA, the State Board of Equalization (BOE) and local Certified Unified Program Agencies (CUPAs) will be able to employ to ensure that critical information about underground storage tanks and owners is routinely collected by UPAs and communicated to BOE. There is an annual fee paid by the tank owner to BOE that is associated with the BOE tank number. This fee is a major funding source for leaking UST cleanup.

A UST Cleanup Fund Performance Audit completed on February 22, 2010 indicated that a weak area in the information collection on USTs was from local agencies working for CUPAs, called Participating Agencies (PAs), implementing the UST program. A significant number of PAs were failing to collect BOE tank numbers on their permitting documents, indicating that some owner/operators were not registering their USTs.

Cal/EPA has developed an action plan for UPAs that requires CUPAs and PAs to develop and implement procedures to ensure that all UST owners/operators fully complete the required permit forms, which includes obtaining a BOE tank number, for their USTs at the time of application for a permit or permit renewal.

To review Unified Program Bulletin 0910-06 in its entirety, click on the following link:
http://www.calepa.ca.gov/cupa/Bulletins/2010/0910_06.pdf

DTSC – None

State Water Resources Control Board

New UST Program Staff

We are pleased to announce that Cory Hootman has joined the State Water Board UST Technical Unit. Cory is no stranger to the UST Program; he previously worked in the UST Cleanup Unit as a student for 4 years. Cory can be reached at chootman@waterboards.ca.gov or (916) 341-5668.

Board of Equalization UST Storage Fee Account Number

A UST Cleanup Fund Performance Audit completed February 22, 2010 indicated a significant number of UPA's are failing to collect the BOE Storage Fee Account Number on the Underground Storage Tank, Operating Permit Application – Facility Information (Formerly Form A).

Beginning immediately it is imperative that during inspection and permitting activities UPA's verify that the Storage Fee Account Number is properly identified. Inspection compliance or permit issuance should not be completed until the Storage Fee Account Number has been provided by the UST Owner. Further information on procedures and enforcement will be distributed by CalEPA shortly.

The BOE's Underground Storage Tank Maintenance Fee Application (Publication 400) that should be provided to UST owners who have not properly identified a BOE Storage Fee Account Number may be accessed from our website at: <http://www.boe.ca.gov/pdf/boe400csc.pdf>

UST Program Contact: Laura Fisher (lfisher@waterboards.ca.gov; (916) 341-5870).

Advisory Regarding the Installation of New Flexible Piping Inside Existing/Abandoned Piping

The reports of flexible piping failures continue to increase throughout the State and subsequently so does the question as to the compliance of pulling new flexible piping through the old failed piping.

California Code of Regulations, Title 23, Section 2631 requires several UST components, including piping, to be approved by an independent testing laboratory. Piping used in the United States utilizes the Underwriter's Laboratories Standard (UL) Standard for Nonmetallic Underground Piping for Flammable Liquids (UL 971).

UL 971, Section 2.3.21 identifies that piping can be in contact with soil (direct burial) or routed in a secondary or chase pipe (indirect burial). However, UL 971 Section 1.3 specifically limits products covered by the Standard to "normal soil applications". After having discussed "normal" soil applications with the UST Industry and UL, it is generally accepted that "normal" is considered a "non-contaminated" backfill and/or atmosphere.

While some manufacturers have provided written documentation stating that it is acceptable to install new piping within old piping, we believe that this is in direct conflict with the conditions by which UL has issued a mark for their product. Pulling new pipe through old pipe is not compliant with the requirements imposed by the independent testing laboratory approval as required by Title, 23, CCR Section 2631. Please note however, the use of rock guard during flexible pipe installation may be reused as a pipe chase provided no contamination has occurred from failure of the flexible pipe.

UST Program Contact: Laura Fisher (lfisher@waterboards.ca.gov; (916) 341-5870).

Big Oil & Tire Company Judgment

The State Water Board, in conjunction with the California Attorney General's Office, the Humboldt County District Attorney's Office and the California District Attorneys Association's Environmental Circuit Prosecutor Project, has obtained a \$1.1 million judgment against Big Oil & Tire Company (Big Oil) for monitoring and construction violations found at ten underground storage tank (UST) facilities owned and operated by Big Oil in Humboldt County.

Under the terms of the judgment, which resulted from a settlement, Big Oil will pay \$225,000 to the State Water Board and Humboldt County over a period of five years. In addition, Big Oil will pay \$50,000 to the State Water Board, Humboldt County and the California District Attorney Association for reimbursement of enforcement costs, including attorney's fees. Big Oil will receive \$418,000 in credit against additional penalties for improvements that Big Oil made to its UST systems that are above and beyond those required by law. The settlement suspends an additional \$407,000 in penalties for a period of five years, provided that Big Oil does not violate one or more of the following five provisions: (1) performing secondary containment testing, (2) repairing any tank system that fails secondary containment testing, (3) complying with overfill prevention requirements, (4) conducting 10-year lining inspection, or (5) performing cathodic protection testing.

A copy of the complete settlement, which was filed with the Humboldt County Superior Court, can be found on the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/

UST Enforcement Contact: Kim Sellards (ksellards@waterboards.ca.gov; (916) 341-5869)

Franzen-Hill Corporation Judgment

The State Water Board, in conjunction with the California Attorney General's Office, has obtained a \$40,000 judgment against Franzen-Hill Corporation (Franzen-Hill) and its service technicians, David L. Martin and Exequiel Sinco, for performing integrity tests on underground storage tank (UST) systems without a State Water Board issued tank tester's license.

Under the terms of the stipulated judgment, Franzen-Hill will pay \$21,400 in penalties to the State Water Board. Franzen-Hill will also pay \$8,600 in reimbursement of investigation and enforcement costs to the Environmental Health Departments in Kern, Tulare, Kings and Merced Counties, and to the Western States Project. The settlement suspends an additional \$10,000 in penalties for three years, provided that Franzen-Hill or its service technicians do not perform tank integrity testing without either a State Water Board issued tank tester's license or the appropriate manufacturer's training certificate.

A copy of the complete judgment, which was entered by the Fresno County Superior Court, can be found on the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/.

UST Enforcement Contact: Kim Sellards (ksellards@waterboards.ca.gov; (916) 341-5869)

Travel Centers of America LLC Complaint

The California Attorney General's Office, on behalf of the State Water Board, has filed a complaint against TravelCenters of America LLC and their affiliates (TA) for leak prevention violations related to underground storage tanks (USTs) at TA's diesel and gasoline facilities in Merced and Kern Counties. The penalties could result in the multi-millions of dollars. The action was filed in Alameda County Superior Court based on inspections by local and state regulators. The Attorney General seeks a permanent injunction, civil penalties, and other equitable relief.

The lawsuit involves six fueling facilities located in Merced and Kern Counties, which are owned and/or operated by the defendants. The fueling facilities operate under the "TravelCenters of America", "TA" and "Petro" brand names and provide diesel and gasoline fuel, truck repair and maintenance services, convenience stores, and restaurants. The lawsuit seeks civil penalties for numerous violations documented by local and state agencies.

A copy of the complaint can be found on the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/

UST Enforcement Contact: Kim Sellards (ksellards@waterboards.ca.gov; 916-341-5869)

California Emergency Management Agency - None

Office of the State Fire Marshal

Vapor Recovery: Vapor Systems Technology (VST) Nozzles

The Air Resources Board (ARB) in cooperation with Vapor Systems Technologies Inc. has issued a special advisory concerning VST nozzles operating in California. Damaged VST nozzles can unexpectedly cause gasoline spray upon activating the dispenser, prior to the nozzle being inserted into the vehicle fuel tank. The Office of the State Fire Marshal requests the fire authority having jurisdiction to assist ARB in identifying and removing from service any nozzles that are found to be defective and, thus, pose a fire hazard. Fire authorities finding defective nozzles are requested to contact Mr. Ranjit Bhullar of ARB at (916) 322-0223.

The OSFM bulletin along with ARB's advisory on VST nozzles may be accessed from our website at <http://osfm.fire.ca.gov/informationbulletin/informationbulletin.php>.